

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2582 of 2015

N.Mugilan

...Appellant

Vs.

1.P.Vijaykumar

2.United India Insurance Co. Ltd.,  
No.1, BOB Building, 4th Floor,  
State Bank Road, Coimbatore.

..Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 03.10.2012 made in M.C.O.P.No.480 of 2009 on the file of Motor Accidents Claims Tribunal, Principal District Court, Tiruppur.

For Appellant : Mr.S.S.Swaminathan

For R2 : Mr.T.Ravichandran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 03.10.2012 made in M.C.O.P.No.480 of 2009 on the file of Motor Accidents Claims Tribunal, Principal District Court, Tiruppur.

2.The appellant is claimant in M.C.O.P.No.480 of 2009 on the file of Motor Accidents Claims Tribunal, Principal District Court, Tiruppur. He filed the above said claim petition claiming a sum of Rs.5,00,000/- for the injuries sustained by him in the accident that took place on 17.02.2009.

3.Challenging the award of the Tribunal dated 03.10.2012 made in M.C.O.P.No.480 of 2009 dismissing the claim petition, the appellant has come out with the present appeal.

4.The learned counsel appearing for the appellant contended

that the Tribunal without properly appreciating the evidence let in by the appellant, dismissed the claim petition. The Tribunal erred in dismissing the claim petition on the ground of delay in lodging the F.I.R. and also not inspecting the vehicle in which the appellant travelled as per the Motor Vehicles Inspector report. It is the duty of the Insurance Company to prove that there was no accident as stated by the appellant. The police authority based on the F.I.R. filed final report against the report of the offending vehicle and prayed for awarding compensation to the appellant.

5. Per contra, the learned counsel appearing for the second respondent/Insurance Company contended that the F.I.R. was lodged after 32 days by one Robert, the Manager of the Company in which the appellant was working. The said Robert was not examined. The appellant as P.W.1, has deposed contrary to the statements made by the said Robert in the said F.I.R. The appellant has deposed that he lodged the complaint through his advocate and also informed the hospital authority and they also informed the police. No evidence was let in to substantiate the said claim. The Tribunal considering entire materials on record has dismissed the claim petition. The appellant has not made out any case for compensation and prayed for dismissal of the appeal.

6. Heard the learned counsel for the appellant as well as the second respondent and perused all the materials available on record.

7. From the materials on record, it is seen that the Tribunal has dismissed the claim petition holding that there was no accident involving the vehicle of first respondent and the appellant sustained injuries in such accident. The F.I.R. was lodged only after 32 days by one Robert. The said Robert was not examined and there is contradiction in the statement in F.I.R. and evidence of the appellant as P.W.1. From the award of the Tribunal, it is seen that the appellant contended that he lodged complaint through his advocate and as well as he informed the fact to the hospital authority and the hospital authority also lodged a complaint to the concerned Police Station, Tiruppur. The hospital authority who lodged the complaint, where the appellant was initially treated was not examined to prove that they informed the police about the accident. Similarly, he has not examined the officials from hospital where he was subsequently admitted to show that they have informed to the police about the accident. In addition to that, the vehicle of the appellant as well as the first respondent were not produced for inspection before the Motor Vehicles Inspector with regard to damages to the vehicles. The Tribunal considering all the above facts in proper perspective, dismissed the claim petition holding that the appellant failed to prove that the accident had

occurred as alleged by him. There is no perversity in the reasoning and finding of the Tribunal warranting interference by this Court.

8.In the result, this Civil Miscellaneous Appeal is dismissed confirming the order dated 03.10.2012 made in M.C.O.P.No.480 of 2009. No costs.

krk

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Principal District Judge,  
Motor Accidents Claims Tribunal,  
Tiruppur.
2. The Section Officer,  
VR Section,  
High Court,  
Madras.

+1cc to Mr.S.S.Swaminathan, Advocate, SR.No.117  
+1cc to Mr.T.Ravichandran, Advocate, SR.No.181

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Kak(11/06/2019)

सत्यमेव जयते

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