

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.657 of 2017

H.Hansarudeen

.. Appellant /Petitioner

Vs.

1. B.C.Ramesh Palmer

2. The ICICI Lombard General Insurance Company Ltd.,
No.4/3, II floor, Cowly Brown Road,
R.S.Puram, Coimbatore.

(R1 was set-exparte before the Tribunal)

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.11.2011 made in M.C.O.P.No.216 of 2009, on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.2, Gobichettipalayam.

For Appellant : Mr.Ma.P.Thangavel

For R2 : Mrs.R.Sreevidhya

J U D G M E N T

This appeal has been filed by the appellant/claimant/owner of the vehicle, against the award and decree dated 30.11.2011 passed by the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.2, Gobichettipalayam, (for short, "the Tribunal"), in M.C.O.P.No.216 of 2009, whereby, the Tribunal dismissed the claim petition filed by the claimant seeking compensation of Rs.1,20,000/- for the damage caused to his vehicle viz., Maruti Esteem Car bearing Registration No.TN-38-Q-7491, in a motor vehicle accident.

2.The case in brief, is as follows:

On 09.12.2007 at about 06.45 hours, the appellant's driver was driving the Maruti Esteem Car bearing Registration No.TN-38-Q-7491 on Coonoor - Kothagiri main road. When he reached Bithapur palace, a van bearing registration number No.TN-43-B-

8074 belonging to the first respondent and insured with the second respondent, came from the opposite direction in a rash and negligent manner and dashed against the Car. Due to the said impact, the car bearing Registration No.TN-38-Q 7491 was totally damaged. Claiming compensation of Rs.1,20,000/-, the appellant, being the owner of the vehicle, filed a claim petition. However, the Tribunal has dismissed the said claim petition. Aggrieved over the same, the appellant/claimant has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant/claimant has submitted that without considering the oral and documentary evidence adduced by the appellant in a proper perspective, the Tribunal has erred in dismissing the claim petition stating that the appellant has not proved the ownership of the vehicle.

4.Per contra, the learned counsel for the second respondent/ Insurance Company submitted that after properly analysing the materials and evidence, the Tribunal has dismissed the claim petition which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned Counsel for the appellant and learned counsel for the second respondent and perused the materials available on record carefully and meticulously.

6.P.W.1/appellant/claimant has deposed that due to the rash and negligent driving on the part of the driver of the van bearing Regn.No.TN 43 B 8074, the accident had occurred. Ex.P1 First Information Report was registered against the driver of the van. There is no evidence adduced on the side of the respondents to deny the factum of accident and the manner in which the accident took place, as narrated by the appellant/claimant. Placing reliance on those oral and documentary evidence, the Tribunal has come to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the van insured with the second respondent.

7.However, the Tribunal has dismissed the claim petition filed by the appellant, stating that the ownership of the vehicle bearing Regn.No.TN38 Q 7491 was not established by the appellant. Though the appellant has claimed compensation of Rs.1,20,000/- for the damage caused to the said vehicle in the said accident, he failed to prove the ownership of the vehicle by producing the relevant documents. To support his claim, the appellant examined the Executive Officer of United India Insurance Company, Gobichettipalayam as P.W.2, who, during the cross examination, has deposed that in the RC book pertaining to the car, the name of the owner was mentioned as Muhammed Ali.

Strongly relying on the said evidence, the Tribunal has come to the conclusion that the appellant is not the owner of the vehicle bearing Regn.No.TN38 Q 7491 and has ultimately, dismissed the claim petition. In the absence of any concrete evidence adduced on the side of the appellant to prove the ownership of the vehicle, the finding so rendered by the Tribunal does not call for any interference in the hands of this Court.

8.In such view of the matter, this appeal deserves to be dismissed and is accordingly, dismissed. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
Additional District Court,
Fast Track Court No.2,
Gobichettipalayam.

2.The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No. 87531

+1cc to Mr.R.Sreevidhya, Advocate, S.R.No.87839

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RGN (CO)

GN(04/01/2021)

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