

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2020

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2565 of 2008

and

M.P.No.1 of 2008

The Chairman & Managing Director,
United India Insurance Co. Ltd.,
24, Whites Road,
Chennai - 600 014. .. Appellant/2nd Respondent

..Vs..

1.Rajini1st Respondent/Petitioner
2.S.Balaji2nd Respondent/1st Respondent
(2nd respondent ex parte before
Tribunal. Hence, notice may be
dispensed with)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of
the Motor Vehicles Act, 1988, against the Judgement and Decree
in M.C.O.P.No.3714 of 2002, dated 31.01.2008 on the file of the
Motor Accidents Claims Tribunal, Additional District Judge, Fast
Track Court No.2, Chennai.

For Appellant : Mr.M.B.Raghavan

For Respondent 1 : Mr.K.Varadhakamaraj
R2 - ex parte

J U D G M E N T

(This Appeal has been taken up for hearing through Video
conferencing)

This appeal has been filed challenging the Award dated
31.01.2008 passed by the Motor Accident Claims Tribunal (Fast
Track Court No.2), Chennai in MCOP.No.3714 of 2002.

Brief facts leading to the filing of this Appeal:

2. The Appellant is the insurance company. The first
respondent sustained injuries as a result of an accident caused
by a vehicle bearing registration No.TN01 6682 owned by the
second respondent and insured with the Appellant. The case of

Page numbers

the claimant before the Tribunal was that he was a pillion rider in the insured vehicle and due to the rash and negligent driving by the rider of the insured vehicle bearing registration No.TN01 6682, the accident had happened resulting in the injury sustained by the first respondent. It is his case that the second respondent who is the owner and rider of the insured vehicle suddenly applied brake and due to the sudden brake, he fell down from the vehicle resulting in injuries sustained by him. The first respondent preferred a claim before the Motor Accident Claims Tribunal for the injuries as a result of the accident sustained by him seeking compensation from the insurer as well as from the owner of the vehicle.

3. The Motor Accident Claims Tribunal by its award dated 31.01.2008 passed in MCOP.No.3714 of 2002 directed the Appellant insurance company to pay a sum of Rs.1,61,600/- together with interest and costs.

4. Aggrieved by the same, the insurance company has preferred this instant appeal.

5. The only ground raised by the insurance company is that there was an enormous delay in registering an FIR with regard to the accident. It is their case that FIR was registered only on 07.07.2002 after more than 2 ½ months from the date of accident. Excepting for this ground, no other ground was raised by the Appellant in this appeal. They have also not challenged the quantum of compensation fixed by the Tribunal.

6. Before the Tribunal, the first respondent/claimant has filed seven documents which were marked as Ex.A1 to Ex.A7 and two witnesses were examined on his side, namely, the first respondent himself as PW1 as well as the doctor who examined him and issued the disability certificate as PW2. The disability certificate was also marked as Ex.A6. On the side of the Appellant insurance company, two witnesses were examined as RW1 and RW2 and three documents were marked.

7. As seen from the impugned award, the Tribunal has considered the materials and evidence available on record and has conclusively found that the first respondent/claimant established their case by oral and documentary evidence, as seen from the documents which were marked as Exhibits as well as from the oral evidence let in by the first respondent/claimant on his side. The delay with regard to the lodging of FIR has also been duly considered by the Tribunal under the impugned award. The accident and the injuries sustained by the first respondent/claimant has been duly proved through the oral and

Page numbers

documentary evidence let in by the first respondent/claimant. The evidence placed on record by the Appellant before the Tribunal does not disprove the contention of the claimant and therefore the Tribunal has rightly passed an award in favour of the first respondent/claimant.

Conclusion:

8. In such circumstances, this court is of the considered view that there is no merit in this Appeal. Accordingly, this Appeal shall stand dismissed. The Appellant Insurance Company is directed to deposit the Award amount together with interest from the date of claim till the date of deposit and costs as assessed by the Tribunal after deducting the amount already deposited to the credit of MCOP.No.3714 of 2002 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the first respondent is permitted to withdraw the award amount lying to the credit of MCOP.No.3714 of 2002 along with accrued interest by filing an appropriate application. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

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

Copy to:

The Section Officer

V.R.Section, High Court of Madras.

C.M.A.No.2565 of 2008

BP (CO)
CB(29/01/2021)

Page numbers