

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.845 of 2009

Natarajan

... Appellant/Claimant

vs.

1. Rajamanickam
2. Ravi
3. The Branch Manager,
United India Insurance Co. Ltd.,
KBS. Motors Building,
36, Kadapadi Main Road,
Gandhi Nagar, Vellore-632 006.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 12.12.2007 made in MCOP.No.32 of 2004 on the file of the Motor Accident Claims Tribunal (Additional District Court/Fast Track Court-I), Erode.

For Appellant : Mr.E.Durai Vaiyapuri
for Mr.N.Manokaran

For Respondents: Mr.S.Paranthaman - R3
Served no appearance - R1
R2 - Door locked

JUDGMENT

[This Appeal was taken up for hearing through Video Conferencing]

This appeal has been filed by the claimant challenging the impugned judgment and decree dated 12.12.2007 passed by the Motor Accident Claims Tribunal (Additional District Court/Fast Track Court-I) Erode in MCOP.No.32 of 2004.

2. The appellant/claimant, in his claim petition, has alleged that he sustained injuries on 25.01.2000 as a result of an accident caused by a lorry bearing Registration No.KA 01 6567 owned by the second respondent and insured with the third respondent. The appellant/claimant sustained injuries in his

right femur, right knee, right tibia, right fibula, right leg and other injuries all over his body.

3. The appellant/claimant preferred a claim against the respondents before the Motor Accident Claims Tribunal (Additional District Court/Fast Track Court-I) Erode in MCOP.No.32 of 2004 seeking compensation for the injuries sustained by him as a result of the accident.

4. The Motor Accident Claims Tribunal, under the impugned judgment and decree dated 12.12.2007 passed in MCOP. No.32 of 2004 dismissed the claim on the ground that the subject vehicle was not involved in the accident as seen from the final report from the Police, dated 31.10.2001, which was marked as Ex.A2.

5. Challenging the award dated 12.12.2007 in MCOP. No.32 of 2004, the appellant/claimant has filed this appeal.

6. Heard Mr.E.Durai Vaiyapuri, learned counsel for the Appellant/ claimant and Mr.S.Paranthaman, learned counsel for the 3rd respondent/Insurance Company. There is no representation for the respondents 1 and 2.

7. Before the Tribunal, the claimants have filed 14 documents, which were marked as Ex.P1 to Ex.P14 and two witnesses were examined on his side viz., the appellant/claimant himself (PW1), Dr.S.V.Kumar, Doctor, who examined him as PW2. On the side of the respondents, three documents were filed which were marked as Ex.R1 to Ex.R3 and three witnesses were examined viz., RW1 to RW3 before the Tribunal.

8. Before the Tribunal, it was the consistent stand of the third respondent/insurance company that the subject vehicle which caused the accident was plying only in Vellore District and there was no occasion for the said vehicle to have plied at Uthukuli or the surrounding areas where the alleged accident is said to have taken place. The Police acting on the complaint, lodged by the appellant/claimant, has also filed a final report dated 31.10.2001 after investigation and was marked as Ex.A2, before the Tribunal, which reveals that the Police have closed the complaint since the subject vehicle was not involved in the said accident and was not plying at Uthukuli at the time of the accident. The Tribunal has taken into consideration Ex.P2 and has rightly come to the conclusion that the subject vehicle was not involved in the accident. No contra evidence has also been produced to disprove the contention of the third respondent as well as the contents of the final report filed by the Police dated 31.10.2001 (Ex.A2). The appellant/claimant has also not challenged the final report dated 31.10.2001 (Ex.A2) and it has now attained finality. The Tribunal has taken note of the

aforementioned factors and has rightly dismissed the claim filed by the appellant/claimant. There is no iota of evidence produced before the Tribunal to prove that the insured vehicle was involved in the accident which resulted in injuries caused to the appellant. This Court does not find any illegality or infirmity in the finding of the Tribunal.

Conclusion:

9. For the foregoing reasons, there is no merit in this appeal. Accordingly, this Appeal shall stand dismissed. There is no order as to costs.

Sd/-

Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

rli

To

The Motor Accident Claims Tribunal
(Additional District Court/Fast Track Court-I),
Erode.

Copy To

The Section Officer,
VR Section, High Court,
Chennai.

+1cc to Mr.N.Manokaran, Advocate SR.No.28801

+1cc to Mr.S.Paranthaman, Advocate SR.No.28625

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SSI (CO)

GMV (17/04/2021)