

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.403 of 2010

and

M.P.No.1 of 2010

1. The Chief Educational Officer
Nagapattinam having his office at
Nagapattinam & Munsif
- 2.The District Collector
having his office at
Nagapattinam & Munsif. Appellants/Respondents 1 & 2

...Vs...

- 1.Udhumanul Ariff
- 2.N.Vetrivel
- 3.The United India Insurance Company Limited
Nagapattinam, rep. by its Branch Manager
Having office at No.19, Neela South Street
Nagapattinam Town & Munsif.
...Respondents/Petitioners Respondents 3 & 4

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 09.11.2009 made in MCOP.No.106 of 2008, on the file of the Motor Accident Claims Tribunal & Chief Judicial Magistrate, Nagapattinam.

For Appellant : Mr.S.Jaganathan
Special Government Pleader
(CS)

For Respondents: Mr.E.Rajadurai - R3
for Mr.N.Vijayaraghavan
R1 & R2 - No Appearance

J U D G M E N T

(This Appeal was taken up for hearing through Video Conferencing)

This appeal has been filed challenging the award dated 09.11.2009 passed by the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Nagapattinam, in MCOP.No.106 of 2008.

2. The only ground that is raised by the Appellants is that they are not liable to compensate the claim of the 1st respondent/claimant on the ground that only due to the rash and negligent driving by the driver of the vehicle insured with the 3rd respondent, the accident had happened. It is also their case that the first FIR was registered only against the driver of the vehicle insured with the 3rd respondent and therefore, they are not liable to compensate the claim of the 1st respondent.

3. The Motor Accident Claims Tribunal under the impugned award has directed the Appellants to pay the first respondent/claimant, a sum of Rs.2,24,720/- together with interest and costs as detailed hereunder:

Heads	Award Amount (Rs.)
Permanent disability at 55%	68,750/-
Pain and suffering	5,000/-
Medical Expenditure	1,28,378/-
Physiotheraphy	17,750/-
Transport expenses	2,842/-
Extra Nourishment	2,000/-
Total	2,24,720/-

4. Before the Tribunal, the first respondent/claimant has filed 25 documents which were marked as Ex.P1 to Ex.P25 and two witnesses were examined on his side namely, the first respondent/claimant himself as PW1 and the Doctor who examined him as PW2. On the side of the Appellants as well as the respondents 2 and 3 who were the respondents in the claim petition, five documents were filed which were marked as Ex.R1 to R5 and two witnesses were examined as RW1 and RW2.

5. Admittedly, the FIR which the Appellants are relying upon in this appeal was never marked as exhibit before the

Tribunal. It was an FIR based on a complaint lodged by the driver of the vehicle owned by the Appellants who is not an independent person. But the complaint lodged against the driver of the vehicle owned by the Appellants were taken cognizance by the police and an FIR was registered against the driver of the vehicle owned by the Appellants which was marked as Ex.P1 before the Tribunal. The MVI report of the Jeep owned by the Appellants as well as the MVI report of the Car insured with the third respondent were marked as Ex.P4 and Ex.P5 respectively before the Tribunal. RW1 is the driver of the Jeep owned by the Appellants. As as seen from his deposition, he, himself admitted that he was not working under the Appellants and was not their authorised driver. He has also admitted that no charge sheet has been filed in respect of the FIR registered by the police at his behest. A consistent stand has also been taken by the respondents before the Tribunal that only due to the rash and negligent driving of the driver of the Jeep owned by the Appellants, the accident had happened. The MVI reports of the Jeep as well as the Car also does not reveal that the driver of the Car insured with the third respondent was responsible for the cause of the accident. The Tribunal under the impugned award has taken into consideration all these factors and has rightly rejected the contention of the Appellants.

Conclusion:

6. For the forgoing reasons, there is no merit in this appeal. Accordingly, this appeal is dismissed. The Appellants are 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, if any to the credit of MCOP.No.106 of 2008 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount along with accrued interest to the bank account of the first respondent/claimant through RTGS within a period of two weeks thereafter. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Nagapattinam.

2.The Section Officer,
V.R.Section,
High Court of Madras.

+1cc to the Additional Government Pleader Sr.28008

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