

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.01.2020

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1440 of 2013

and

M.P.No.1 of 2013

Manivannan ... Appellant/1st Respondent

Vs

1. J.Jayavel ...1st Respondent/Petitioner

2. United India Insurance Co. Ltd.,
Mayiladuthurai. ... 2nd Respondent/2nd Respondent

Prayer : Civil Miscellaneous Appeal filed under Article 173 of Motor Vehicles Act 1988, against the Judgment and decree dated 09.03.2012 passed in MCOP. No.179 of 2011 on the file of the learned Additional District Judge/Fast Track Court-I, Chidambaram.

For Appellant : Mr.A.Muthukumar

For Respondents : Mr.M.Vijayaraghavan - R2

Notice served - No appearance - R1

J U D G M E N T

This appeal has been filed by the appellant against the Judgment and decree dated 09.03.2012 passed in MCOP. No.179 of 2011 on the file of the learned Additional District Judge/Fast Track Court-I, Chidambaram.

2. The case of the claimant is that on 30.09.2009 at about 7.00 P.M., while the first respondent/claimant was waiting for the bus at Veerasozhapuram Bus Stop at Kumbakonam- Chennai Main Road, the appellant herein /first respondent's driver drove the car bearing Registration No.TN 22 AR 9554, in a rash and negligent manner and dashed against the claimant, as a result of which, the claimant/first respondent sustained grievous injuries.

3. The respondents 1 and 2 contested the claim petition and the Tribunal after analysing the evidence on record, directed the first respondent/owner of the car to pay a sum of Rs.71,200/- as compensation to the claimant. Aggrieved against the award of compensation by the Tribunal, the appellant/owner of the car has filed the present appeal.

4. The appellant has filed a miscellaneous petition in M.P.No.1 of 2013 to receive the additional document. This Court, after hearing the arguments of the learned counsel for both sides, allowed the petition today and document was taken on record as Ex.A.

5. Mr.A.Muthukumar, learned counsel appearing for the appellant would submit that the accident was not occurred due to rash and negligence of the appellant's driver. The Tribunal failed to consider that the driver had a valid driving license at the time of accident. Therefore, the Insurance Company has to pay the entire award amount of compensation to the Claimant. Hence, the learned counsel prays to allow this appeal.

6. Per contra, the learned counsel appearing for the second respondent/Insurance Company contended that the Tribunal has considered all the aspects of the case and awarded a compensation of Rs.71,200/- and the same need not be disturbed at this stage.

7. Heard the learned counsel appearing for the appellant as well as the learned counsel for the second respondent-Insurance Company and also perused the materials available on record.

8. A perusal of the judgment of the Tribunal, it is seen that at the time of the accident, the appellant has not produced any documents to prove his case and the accident was occurred due to rash and negligent driving of the driver of the appellant. Therefore, the Tribunal has awarded a sum of Rs.71,200/- to the claimant as compensation payable by the owner of the car.

9. The learned counsel for the appellant submitted that the Insurance Company is liable to pay the compensation to the claimant. The learned counsel for the second respondent Insurance Company submitted that there was no policy in force and hence, the appellant's driver had no valid license at the time of accident. Therefore, the second respondent is not liable to pay any compensation to the claimant. From the materials on record, it is seen that the appellant has not filed any documentary evidence before the Tribunal and he has not proved that the driver had no valid license.

10. The learned counsel for the appellant has filed a miscellaneous petition for producing the driving license for additional evidence and the same was produced before this Court and this Court has accepted the same and marked as Ex.A.

11. In the circumstances, this Court is inclined to interfere with the order of the Tribunal and the appeal is allowed. The second respondent-Insurance Company is directed to deposit the entire award amount passed by the Tribunal along with interest and costs, within a period of eight weeks from the date of receipt of a copy of this judgment.

12. The appellant has already deposited a sum of Rs.25,000/- before the Tribunal and he is directed to withdraw the same. The 1st respondent/claimant is permitted to withdraw the amount payable by the Insurance Company with interest and costs by filing necessary applications before the Tribunal. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal/
The Additional District Judge,
FTC -I, Chidambaram.

Copy to
The Section Officer,
VR Section, High Court, Madras

+1cc to Mr.A.Muthukumar, Advocate SR.No.323

+1cc to Mr.M.Vijayaraghavan, Advocate SR.No.424

C.M.A.No.1440 of 2013
and
M.P.No.1 of 2013

MR (CO)
GMY (25/08/2020)

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