

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.166 of 2011

(Through Video Conferencing)

Manivannan

..Appellant

vs.

1.Vennila Visveswaran

2.K.Senthil Kumar

(Respondents were exparte before
the Tribunal)

..Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree made in M.C.O.P.No.314 of 2010 dated 01.10.2010 on the file of the Motor Accident Claims Tribunal (II Additional Sub Court) Salem.

For Appellant : M/r.S.D.S.Dhilip

J U D G M E N T

The claimant is the appellant in this appeal and is aggrieved by the impugned Judgment and decree dated 01.10.2010 passed by the Motor Accident Claims Tribunal, (II Additional Sub Court) Salem in O.P.No.314 of 2010. In this appeal seeks for compensation of Rs.1,00,000/-though before the Tribunal, the appellant had claimed a sum of Rs.8,00,000/-.

2. Before the Tribunal, the respondents herein have remained exparte . Notice on the respondents have also remained unserved in this appeal as well.

3. The Tribunal has rejected the claim petition filed by the appellant solely on the ground that the appellant had not produced any evidence to substantiate the accident. The appellant had allegedly suffered an injury on account of the accident. However, in absence of production of Accident Register, the claim was rejected. Now, the learned counsel for the appellant has filed a typed set of documents and has also produced copy of the accident register dated 02.10.2009. As per the claim statement, the accident is said to have been taken place on 01.10.2009 at about 11.45 p.m.

4. Since the claim petition has been rejected solely on the ground that on account of failure of the appellant to produce the accident register, I am of the view that the impugned order passed by the Tribunal is to be set aside and the case is remitted back to the Tribunal to examine the Accident Register which was not produced before it.

5. Accordingly, the Impugned Judgment and Decree is set aside and the case is remitted back to the learned II Additional Subordinate Judge, Salem to decide the case afresh after considering the accident register which the appellant proposes to mark before the Tribunal to substantiate the case. The learned Subordinate Judge, Salem is directed to pass appropriate orders on merits and in accordance with law after ordering fresh notice on the 2nd respondent. The Tribunal shall endeavour to complete the proceedings within a period of one year from the date of receipt of a copy of this order.

6. In the result, this civil miscellaneous appeal is allowed by way of remand. No costs.

kkd

Sd/-
Assistant Registrar (CS-VIII)

// True Copy //

Sub Assistant Registrar

To:

Motor Accident Claims Tribunal
II Additional Sub Court, Salem.

Copy to: The Section Officer, Vr Section, High Court, Madras.

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SS (CO)
EU 19.12.2020