

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.110 of 2012

M.Saravanan

.... Appellant /Petitioner

Versus

1. P.Dhanapal
2. Bajaj Alliance General Insurance
Co. Ltd.,
No.25/26, Prince Towers,
4th Floor,
College Road,
Chennai - 600 006. Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the fair and decreetal order passed in M.C.O.P No.358 of 2006, dated 30.10.2010 by Motor Accident Claims Tribunal (Fast Track Court IV, Ponneri).

For Appellant : Mr.S.Parthasarathy

For Respondents : Ms. R.Sreevidhya
for R2

Not ready in notice for R1

JUDGMENT

(This appeal was taken up for hearing through Video conferencing)

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 30.10.2010 passed by the Motor Accidents Claims Tribunal, Fast Track Court No.IV, Ponneri in MCOP No.358 of 2006.

2. The Appellant / claimant has challenged the award on the following grounds :-

a. The Tribunal has erroneously exonerated the liability of the second respondent / Insurance Company by holding that the Insurance Company is not liable to compensate the claim, since the Appellant / claimant was an unauthorised passenger in the insured vehicle when he met with the accident and b.

the quantum of compensation awarded by the Tribunal is also not a just compensation and it has to be enhanced.

3. The Motor Accidents Claims Tribunal (Fast Track Court No.IV, Ponneri) by its award dated 30.10.2010 directed the 1st respondent / owner of the vehicle to pay the Appellant / claimant a sum of Rs.30,000/- together with interests and costs on lumpsum basis.

4. Heard Mr.S.Parthasarathy, learned counsel for the Appellant, Mrs.R.Sreevidhya, learned counsel for the second respondent.

5. This Court has perused the materials and evidence available on record before the Tribunal.

6. Insofar as the first contention raised by the Appellant is concerned, the Tribunal has exonerated the second respondent / Insurance Company from any liability in view of the fact that the Insurance policy, Ex.R1 gives coverage only for one person i.e. the Driver and hence, the Appellant is a gratuitous passenger. In the case on hand, the Appellant / claimant has preferred a claim on the ground that he was carrying water cans and was travelling in the insured vehicle along with the driver when the vehicle met with an accident which resulted in him in sustaining injuries.

7. The Insurance policy (Ex.R1) and the Registration Certificate of the vehicle (Ex.R2) also reveals that only one person can travel in the insured vehicle and the insurance coverage is only for one person. It is an admitted fact that as seen from the evidence available on record and as seen from the claim petition filed by the Appellant / claimant that the Appellant /claimant was not the Driver of the vehicle and he was travelling in the said vehicle carrying water cans. The Tribunal has taken into consideration the evidence available on record and has rightly rejected the claim as against the second respondent / Insurance Company, since the Appellant was a gratuitous passenger and has passed the impugned award against the first respondent alone, who is the owner of the vehicle.

8. Since this Court has rejected the primary contention raised by the Appellant with regard to the exoneration of the second respondent's liability by the Tribunal, there arises no necessity for this Court to consider the second contention with regard to the quantum of compensation as the second respondent has been absolved of any liability.

9. For the foregoing reasons, there is no merit in this appeal. Accordingly, the Civil Miscellaneous Appeal shall stand dismissed. No costs.

10.The first respondent / owner of the vehicle is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P. No.358 of 2006, on the file of the Motor Accidents Claims Tribunal, Fast Track Court No.IV, Ponneri, 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 directly to the bank account of the Appellant /claimant, through RTGS, within a period of two weeks thereafter.

Sd/-

Assistant Registrar(CJ conf)

//True Copy//

Sub Assistant Registrar

vsi2/nl

To

- 1.The Additional District Judge,
Motor Accidents Claims Tribunal,
Fast Track Court No.IV, Ponneri
- 2.The Section Officer,
V.R. Section, High Court of Madras,
Chennai - 104.

+1cc to Mr.S.Parthasarathy, Advocate SR.28519

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