

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED.26.08.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.2826 of 2011

&

M.P.No.1 of 2011

National Insurance Co. Ltd.,
Rep. by its Branch Manager,
Green field, Oodacamund,
(Nilgiris District)

... Appellant/3rd Respondent

vs.

1.R.Punjabikesan ... 1st Respondent/Petitioner

2.P.Prakash

3.A.Rajiv ...2nd & 3rd Respondents/1st and 2nd Respondents
(2nd respondent herein set exparte)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 4th day of September 2007 made in MCOP.No.39 of 2006 on the file of the Motor Accident Claims Tribunal cum Sub Court, Oodacamund (Nilgiris District).

For Appellant : Mr.K.Padmanabhan

For Respondents : Mr.S.K.Raghunathan
for M/s.Kingsten Jerold for R1
R2 - Exparte
R3 - Not Ready in notice

JUDGMENT

[This Appeal has been taken up for hearing through Video Conferencing]

This appeal has been filed by the Appellant insurance company challenging the impugned award dated 04.09.2007 passed by the Motor Accident Claims Tribunal (Sub Court, Oodacamund, Nilgiris District) in MCOP.NO.39 of 2006.

2. Heard Mr.K.Padmanabhan, learned counsel for the Appellant and Mr.S.K.Raghunathan, learned counsel for the first respondent. The second respondent remained exparte both before the Tribunal as well as this Court.

3. The details of the compensation awarded by the Tribunal under the impugned Award are as follows:

Heads	Award Amount (Rs.)
For Grievous injuries	20,000/-
For ugly face due to injuries	25,000/-
Loss of income	4,500/-
Medical expenses (Bills)	13,122/-
Medical Expenses (operation)	25,000/-
Pain and suffering	10,000/-
Extra nourishment	10,000/-
Transportation	5,000/-
Disability	10,000/-
Total	1,22,622/-

4. The only ground raised by the Appellant insurance company in this Appeal is that they are not liable to compensate the claim of the first respondent, since (insured) the owner of the vehicle has already transferred the ownership of the vehicle to a third party.

5. Before the Tribunal, the first respondent/claimant has filed nine documents which were marked as Ex.P1 to Ex.P9 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 Appellant/insurance company, only one document was filed namely the insurance policy (Ex.R1) and one witness was examined on their side namely RW1, the insurance company official.

6. Admittedly, the Registration certificate for the insured vehicle which was involved in the accident which resulted in the first respondent/claimant sustaining injuries stood in the name of the third respondent namely A.Rajiv, the insured at the time of the accident which happened on 03.02.2006. The Appellant insurance company has not produced any documentary evidence to prove that there was transfer of ownership from Mr.A.Rajiv (insured) to a third party. The first respondent/claimant has also denied any transfer of ownership as seen from the evidence available on record. The Tribunal has considered all these aspects and has rightly rejected the contention of the Appellant insurance company.

7. The issue raised by the Appellant is also covered by a

judgment of the Hon'ble Supreme Court in the case of Prakash Chand Daga vs. Saveta Sharma and others reported in 2019 (2) SCC 747 wherein the Hon'ble Supreme Court has held that the liability of the insurance company is not absolved, if the registration certificate stands in the name of the insured. Admittedly, in the case on hand, the insurance policy (Ex.R1) stood in the name of the insured and was in force at the time of the accident. In view of the settled position of law, there is no merit in this appeal.

Conclusion:

8. This Court does not find any infirmity in the findings of the Tribunal. Accordingly, this Appeal shall stand dismissed. The Appellant insurance company is directed to deposit the award amount along with interest from the date of claim till the date of deposit and cost after deducting the amount already deposited if any to the credit of MCOP.No.39 of 2006 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 lying to the credit of MCOP.No.39 of 2006 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-I)

//True Copy//

Sub Assistant Registrar

N1

To

1.The Sub Judge,

MACT, Ootacamund, Nilgiris District.

Copy To

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

+lcc to Mr.Kingsten Jerold, Advocate, S.R.No. 28104

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VG I (CO)

GN(04/05/2021)