

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2020

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2892 of 2012

Adalat @ Dhilip kumar

.... Appellant/Petitioner

Vs.

1.Sarif

2.D.Rajendrakumar

3.Iffco-Tokio General Insurance Co. Ltd.,

Tulsi Chambers, 3rd floor, 195,

T.V. Swamy Road,

R.S. Puram, Coimbatore

.... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 to set aside the decree and Judgment made in M.C.O.P.No.90 of 2010 on the file of the Motor Accident Claims Tribunal cum Fast Track Court No.4, Bhavani, Erode District dated 13.10.2011.

For Appellant : Mrs. Gayathiri for Mr.C. Kulanthivel

For R-3 : Mr.E. Rajadurai for Mr.M.B.Gopalan

J U D G M E N T

This Appeal has been filed by the appellant to set aside the decree and Judgment made in M.C.O.P.No.90 of 2010 on the file of the Motor Accident Claims Tribunal cum Fast Track Court No.4, Bhavani, Erode District dated 13.10.2011.

2.It is the case of the claimant on 29.09.2009 at about 12:15 p.m when he was proceeding as a pillion rider in a two wheeler bearing Registration No.TN-34-H-8210 in Kovai to Salem main road at Gangapuram hospital another motorcycle bearing Registration No.Tn-39-H-7422 came in the opposite direction and dashed against the two wheeler in which the appellant was proceeding as a pillion rider. Due to the impact the rider of the two wheeler sustained injuries. Hence, he filed a claim petition before the Tribunal seeking compensation for the injuries sustained in the accident and the same was dismissed by the Tribunal.

3. Aggrieved over the dismissal award passed by the Tribunal, this appeal has been instituted by the appellant.

4. On a fair reading of the Order passed by the Tribunal, the learned Judge had discussed elaborately about the aspect that whether this appellant is the person who was injured in the accident and his name is Adalat or not. The Tribunal based on the available records found that two persons Adalat and his brother, who is the first respondent herein by name Sherrif was proceeding in a two wheeler and the accident took place. After the accident, the same was informed to one Dilip Kumar, who is the proprietor of the company in which Adalat was working. The said Dilip Kumar came to the place of occurrence and admitted Adalat along with his brother/Sherrif in National Hospital as in-patient.

5. The Tribunal further observed that from Ex.P.1/First Information Report and Ex.P.5/Wound certificate, the name of the injured was mentioned as Adalat. Apart from this when police recorded 161 statements from the victim, he had mentioned his name as Adalat and he is working in the mill owned by one Dilip Kumar. Hence, the Tribunal concluded that the persons who is injured in the accident is Adalat and no person by name Adalat (a) Dilip Kumar was involved in the said accident.

6. Moreover, the first respondent/Sarif, who is the brother of the Adalat was not examined before the Tribunal. In any case the eyewitness to the occurrence will be examined, which is not done in this case. The summons sent to the first respondent and one Dilip kumar (Proprietor of T.T. Cotton Mill) was returned without assigning any valid reason.

7. It was further held that the appellant to prove that his name is Adalat @ Dhillip kumar has not filed valid documents such as Family Card, Voter Id, Driving license etc., R.W.2/Sub Inspector and R.W.3/Doctor had deposed in the cross examination that the name of the injured is mentioned in the documents as Adalat and they have deposed that Adalat and Dilip Kumar are two different persons.

8. Based on the above, it is clear that the name of the appellant herein as Adalat (a) Dilip Kumar and the pleadings that Adalat are one and the same was not proved by him through proper documents. Though very many grounds have been raised by the appellant to substantiate his claim, he failed to produce any documents or evidence before the Tribunal. Hence, the Tribunal had rightly dismissed the petition. Thus, the findings rendered by the Tribunal are persuasive which cannot be brushed aside easily. When the injured being the brother in the absence

of him the person who is now claiming compensation has fraudulently wanted to enrich himself has tried to impersonate him. No new fact is forthcoming to assail the reasonings rendered by the Tribunal. Hence, this Court is not inclined to accept the grounds in appeal.

9.However, no documents has been produced before this Court also to prove the same and none has been examined to substantiate the claim made by the appellant. Even otherwise the ground raised by the appellant or untenable. Apart from that there is no grounds raised by the appellant while alleging the petition.

10.Even assuming the claim of the appellant is to be true that he was called Adalat (a) Dilip kumar, in the absence of any supporting evidence, orally or documentary the claim of the appellant is rejected. In such view of the matter the finding of the Tribunal and the dismissal order passed by the Tribunal is confirmed as such.

11.Thus, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal stands dismissed. No costs

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

smn
To

The Motor Accident Claims Tribunal-
Cum Fast Track Court No.4,
Bhavani, Erode District.

+lcc to Mr.C.Kulanthaivel, Advocate Sr.12932
+lcc to Mr.M.B.Gopalan, Advocate Sr.14308

C.M.A.No.2892 of 2012

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srg 26/04/2021