

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2020

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.1720 of 2016

and

C.M.P.No.992 of 2020

Madhan @ Maranadu

... Appellant/Petitioner

/versus/

1. Veeramuthu

2. Manoharan

3. The United India Insurance Company Ltd.,
No.203 A, Avinashi Road,
Peelamedu, Coimbatore.

(R1 & R2 - Exparte before Tribunal) ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act pleaded to set aside the Judgement and Decree dated 12.01.2011 made in M.C.O.P.No.797 of 2008 on the file of MACT/ II Additional Sub Court, at Coimbatore, and to award just and reasonable compensation with interest and cost by allowing this Civil Miscellaneous appeal.

For Appellant : Mr.M.Lokesh
for Ma.P.Thangavel
For Respondents : Mr.I.Malar for R3
R1 & R2 - Exparte
(Tribunal)

J U D G M E N T

Heard the counsel for the appellant and the respondent.

2. On 01.06.2018 at 07.00 P.M., near Kanji konan palayam road junction, L&T Bye Pass road, Coimbatore, road accident occurred when the petitioner was riding the two wheeler bearing Reg.No.TN 38 AK 5503, a Qualis Car bearing Reg.No. TN 51 V 3939 dashed against the petitioner's vehicle. The FIR was registered against the driver of the Qualis car for causing injury to the rider of the two wheeler and the pillion rider. The FIR was given by the rider of the two wheeler Madhan @ Maranadu s/o Poosai Kannu. The pillion rider Dhanalakshmi died in the Hospital. The rider of the two wheeler who is the appellant herein has filed a claim petition, seeking compensation of Rs.3,00,000/- for the fracture sustained at his left leg. The claim petition was opposed by the Insurance Company on the

ground that the claimant Madhan @ Maranadu is not the person who actually sustained injury in the accident.

3. The relevant paragraph of the counter is extracted below;

" 4. The FIR refers to the injured as one Mr.<adhan @ Maranadu who rode the vehicle with a pillion rider/Dhanalakshmi; The ration card refers to the holder as Maranadu; The O.P. Book issued by the CMC Hospital refers to the name of the injured as "Madan" which has been struck off and written as "Maranadu"; The medical bills refer to the name of the injured as "Maranadu". The petitioner has to prove to the satisfaction of the court that injured and the petitioner are one and the same person by production of valid documentary award to win any award."

4. The Tribunal after considering the material evidence and relying upon the admission by the claimant in the cross examination that he would always sign as Maranadu and the signature found as Madhan in the proof affidavit and in the petition it is not his signature, dismissed the claim petition. Further in the Hospital records Exs. A7, A8 & A9, the injured name is recorded as Maranadu. The FIR and Accident Report shows the name of the injured as Madhan @ Maranadu. Since there was discrepancy regarding the identity of the claimant, the claim petition was dismissed.

5. The learned counsel for the appellant would submit that the trial court has misread the deposition of the claimant examined as PW1 and the suggestions denied by the claimant has been misread by the Tribunal to hold that there is mistaken identity.

6. This Court on hearing the counsel for the appellant verified the documents relied upon by the claimant. In the claim petition, the claimant has signed as 'P.Madhan' in Tamil. In the deposition he has signed as 'P.Madhan'. FIR Ex.P1 was given by the claimant wherein his name is shown as Madhan @ Maranadu. In the Accident Report marked as Ex.P4, the name Madhan has been circled and Maranadu has been inserted. Exs.P8 & P9, discharge summary issued in the name Maranadu. The driving licence Ex.P11 relied upon by the claimant is in the name of Maranadu where he has signed as 'P.Maranadu' in Tamil. The Tribunal has doubted the identity of the claimant because in the proof affidavit filed before the Tribunal by the claimant, he has signed as 'P.Madhan' and in the cross examination he admits that the signature found in Ex.P11, which is the driving licence, is his signature and he also admits that he always used to sign as Maranadu. If it is so, why he has signed in the deposition as

'P.Madhan', has not been explained by the claimant. The person may have an alias name but he cannot sign in alias name and in his original name according to his convenience. More particularly, when he files sworn affidavit of petition before the court, it should be signed by the person who has driven the motor vehicle at the time of accident as per Ex.P11. However, claim petition as well as the sworn affidavit is signed by a different person in a different name.

7. The Trial Court has suspected the identity. In the appeal, though the counsel for the appellant would state that there are records to show that the claimant is the person who sustained injury, these records ought to have been filed before the Tribunal. The decision of the Tribunal cannot be faulted. Even if any record is to be filed to prove his identity, since there is an inherent defect in the sworn affidavit as well as the claim petition, which are found with different signature, this court holds that there is no error in the finding of the trial court and the additional documents sought to be filed will not rectify the defect in the claim petition and the proof affidavit, which were signed as 'Madhan' and not as 'Maranadu'.

8. Hence, this Court finds that the appeal is not sustainable, accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

kmm

To

1.The Motor Accident Claims Tribunal/
II Additional Sub Court,Coimbatore.

2. The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No. 35263

C.M.A.No.1720 of 2016
and
C.M.P.No.992 of 2020

SR(CO)
GN(09/07/2021)