

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.206 of 2020

B.Jaikumar

.. Appellant

Vs.

1.M/s.Arcelor Mittal Dhamm Processing Pvt Ltd.,
No.257, Anna Salai, Chennai - 6.

2.United India Insurance Company Limited,
35-J, MBT Road, Ranipet,
Vellore District - 632 401

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the order and decreetal order dated 04.06.2019 in M.C.O.P.No.5783/2015 on the file of the Motor Accidents Claims Tribunal (II Small Causes Court), Chennai.

For Appellant : Mr.R.Nalliyappan

For Respondents: Mr.D.Bhaskaran
[For R2]

JUDGMENT

The civil miscellaneous appeal is filed against the order and decreetal order dated 04.06.2019 passed in M.C.O.P.No.5783 of 2015.

2. The accident occurred on 22.04.2015 at 6.15 p.m near Kandasami Book Stall, Othavadai Street, Ranipet. The case was registered in Crime No.194/2015 and the claimant has stated that he sustained injuries, more specifically Fracture of left Clavicle, Abrasions over left leg, Contusion over both hands, Multiple injuries all over the body. The claim petition was filed, claiming compensation of Rs.6,43,022/-. The Tribunal framed the issues as to whether the accident has occurred due to the rash and negligent act of the driver of Car bearing Reg.No.TN-01-AF-9155; Whether the petitioner is entitled to claim compensation, if so, the quantum of compensation. As far as the merits of the claim petition is concerned, the Tribunal

elaborately considered the facts and circumstances narrated with reference to the accident occurred. In order to prove the accident, which was occurred as per the claim petition due to the rash and negligent act on the part of the Driver of the Car bearing Reg.No.TN-01-AF-9155, one Mr.Ramanujam, eye witness examined as P.W.2. The claimant has produced Ex.P1, the FIR, in which the Driver of the Car bearing Reg.No.TN-01-AF-9155 is shown as the accused in the case pertaining to the accident. Ex.P5 is the final report of the case. The petitioner soon after the accident was taken to the Government Hospital, Walaja. The AR copy issued by the hospital is marked as Ex.P2. The relevant portion of the said AR copy is "Alleged H/o RTA (person while riding two wheeler hit by the car door at stand while opening at around 6-00 pm on 22.04.2015". Ex.P2 is the earliest document, which speaks about the manner regarding the accident. The claimant was taken to the Hospital by his wife Sujatha. There is no material to show that she has witnessed the accident. The claimant was treated in the said hospital and later discharged. On 04.06.2015, the claimant was admitted at CMC Hospital, Vellore for the injuries stated in the claim petition and undergone an operation on 05.06.2015 and was discharged on 08.06.2015. The said discharge summary is marked as Ex.P4. The material portion of the said summary, which relates to the History of the injury reads as "42 year old Mr.Jaikumar presented with a history of alleged road traffic accident in April and sustained a closed injury to his left shoulder when he was riding a 2 wheeler, hit open door of a stationary car". Again, the claimant himself has given the details of the accident to the doctor. Even, at this juncture, he has not stated that the Bolero car came from the opposite direction and had dashed against him. The claimant has stated to the Doctor that he had dashed against the open door of the stationary car. Thus, the contents of the FIR, which was launched on the next day by imputing allegations against the driver of the Bolero car does not appear to be true. The contents of the FIR states that after taking first aid treatment, he was taken to the CMC hospital at Vellore for further treatment. But, the discharge summary Ex.P4 shows that he was admitted in the said hospital only after nearly 40 days after the accident. The MVI report marked as Ex.P3 shows that the front head light visor of the two wheeler was found scratched and that there was no fresh damages to the Car. All these facts were taken together shows that the accident could not have occurred in the manner stated by the claimant in the claim petition. The statements given by the claimant himself which were extracted in the AR copy and the discharge summary will have more evidentiary value than the FIR and the consequential final report. The claimant has not examined the Police officials also in this regard to prove the accident or the truth in the said documents. The claimant has not disputed the versions found in Ex.P2 and Ex.P4 and had not

offered any explanations to the effect that they were not stated by him but by somebody else.

3. Under those circumstances, the claimant cannot go beyond the narrations made in the claim petition.

4. The Tribunal, based on the above facts, arrived a conclusion that the factum regarding the accident itself was not proved beyond any pale of doubt and the circumstances as narrated by the claimant is not genuine and with contradictions. Under those circumstances, the claim petition was dismissed.

5. This Court is of the considered opinion that the claimants, at the first instance, is bound to establish the accident. The manner of accident must co-relate with the documents filed. In the present case, the discharge summary, the copy of the FIR are not tallying with each other and there are many contradictions in the version of the claimant as well as the facts stated in the documents marked before the Tribunal.

6. This being the factum, the Tribunal was not in a position to proceed further to assess the quantum as the very factum regarding the accident itself was not established by the claimant. This Court do not find any perversity or infirmity with reference to the findings arrived by the Tribunal, which is in consonance with the documents as well as the evidences produced by the claimants before the Tribunal.

7. Accordingly, the order and decretal order dated 04.06.2019 passed in M.C.O.P.No.5783 of 2015 is confirmed and consequently, C.M.A.No.206 of 2020 stands dismissed. No costs.

Sd/-

Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

Kak

To

The II Small Causes Court,
(Motor Accidents Claims Tribunal),
Chennai.

Copy To :
The Section Officer,
V.R Section,
High Court, Madras.

+1cc to Mr.R.Nalliyappan, Advocate SR.No.21223

+1cc to Mr.D.Bhaskaran, Advocate SR.No.21246

C.M.A.No.206 of 2020

MG (CO)
GMY (10/11/2020)



WEB COPY