

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

CMA.Nos.777 and 778 of 2012
and
MP.Nos.1 and 1 of 2012

United India Insurance Co. Ltd.,
No.162, ECR Road, Pudhupattinam,
Kalpakkam - 603 102.

...Appellant/2nd Respondent in both CMAs

vs.

1.M.Selvaraj ...1st Respondent/Claimant
2.Kulandhaivelu ...2nd Respondent/1st Respondent
in CMA No.777 of 2012

1.C.Krishnan ...1st Respondent/Claimant
2.Kulandhaivelu ...2nd Respondent/1st Respondent
in CMA No.778 of 2012

COMMON PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 25.08.2011 passed in MCOP.Nos.223 of 2007 and 224 of 2007 on the file of the Motor Accident Claims Tribunal / Principal Subordinate Court, Chengalpattu.

For Appellant : Mr.C.Ramesh Babu
(in both CMAs)

For Respondents : R1 - Mr.C.Ravichandran
(in both CMAs) R2 - Served - No appearance

C O M M O N J U D G M E N T

The United India Insurance Company, the second respondent in MCOP.Nos.223 of 2007 and 224 of 2007 on the file of the Motor Accident Claims Tribunal / Principal Subordinate Court, Chengalpattu has filed the present appeals questioning their liability to pay compensation to the claimants.

2. The claimants filed the respective claim petitions under Sections 140 and 166 of the Motor Vehicles Act, 1988 seeking compensation for the injuries sustained by them in a road accident that took place on 10.02.2007.

3. The claimant in MCOP.No.223 of 2007, namely, M.Selvaraj is referred as the first claimant and the claimant in MCOP.No.224 of 2007, namely, C.Krishnan is referred as the second claimant. Other parties are referred as per their ranking in these Civil Miscellaneous Appeals.

4. The case of the claimants is that on 10.02.2007, at about 01.30 pm, the first claimant was riding a TVS moped bearing Registration No. TN 21 S 8220 from Pounjur to Pudipattinam along with second claimant as a pillion rider. At that time, a TVS Star City motorcycle bearing Registration No. TN 21 K 9055, hit the motorcycle in which the claimants were travelling, as a result of which, they fell down and sustained grievous injuries. According to the claimants, the rash and negligent riding of the rider of the motorcycle bearing Registration No. TN 21 K 9055 belonging to the second respondent was the cause of the accident and that since the offending motorcycle was insured with the United India Insurance Company, the Insurance Company is liable to pay compensation to them.

5. The learned Principal Subordinate Judge / Motor Accident Claims Tribunal, Chengalpattu after analysing the evidences and materials on record, awarded compensation of Rs.72,000/- and Rs.71,700/- together with interest at the rate of 7.5% per annum to the claimants in MCOP.Nos. 223 of 2007 and 224 of 2007 respectively. The Tribunal further concluded that the Insurance Company should pay the compensation at the first instance and then recover the same from the owner of the offending vehicle / second respondent, since the rider of the motorcycle bearing Registration No. TN 21 K 9055 did not possess a valid driving licence on the date of the accident.

6. Aggrieved over the orders passed by the Tribunal, United India Insurance Company has filed the present appeals under Section 173 of the Motor Vehicles Act, 1988.

7. The learned counsel appearing for the Insurance Company contended that since the rider of the motorcycle bearing Registration No. TN 21 K 9055 was not in possession of a valid driving licence, the Tribunal ought to have directed the owner of the motorcycle bearing Registration No. TN 21 K 9055 to pay compensation to the claimants. He therefore, prayed for exonerating the Insurance Company from paying compensation to the claimants

8. Heard the learned counsel appearing for the claimants and perused the materials available on record. No appearance for the second respondent.

9. On perusing the orders passed by the Tribunal, it is seen that the Tribunal based on the copy of the charge sheet (Ex.R1) and enquiry report (Ex.R2) has held that the rider of the motorcycle bearing Registration No. TN 21 K 9055 was not in possession of a valid driving licence on the date of the accident. Further, the Tribunal relied on the decision in the case of National Insurance Company Limited vs. G.Arumugam and another reported in 2010 (2) TNMAC 362 and held that the appellant / Insurance Company is liable to pay the compensation to the claimants in the first instance and then recover the compensation from the second respondent / owner of the offending motorcycle. In such circumstances, this Court is of the view that there is no perversity in the said finding warranting interference by this Court. Therefore, the orders passed by the Tribunal in MCOP.Nos.223 of 2007 and 224 of 2007 are upheld.

10. In the result, the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
The Principal Subordinate Court,
Chengalpattu.

2.The Section officer
VR Section,
High Court, Madras

+2 CCS to Mr.C.Ramesh Babu, Advocate sr 6474 & 6475.

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VBA (CO)
SP(31/08/2020)