

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED.20.08.2020
CORAM
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE
C.M.A.No.3685 of 2013 &
M.P.No.1 of 2013

New India Assurance Company Limited,
Rep. by its Manager,
No.12, New Hospital Road,
Gobi - Town & Taluk

... Appellant/4th respondent

vs.

- 1.Ranganayaki @ Birundha ... Respondent/Claimant
- 2.P.Angamuthu
- 3.M/s.Arasan Air Products (P) Ltd.,
C60, Sipcot Industrial Complex,
Maadhur Post,
Toothukudi,
Toothukkudi - District. ... respondents/respondents
- 4.Murugesan ... Respondent/3rd respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree passed in MCOP.No.12 of 2011 on 01.08.2013 on the file of the learned Motor Accident Claims Tribunal, (IV Additional District-Judge) of Bhavani at Erode - District.

For Appellant : Mr.J.Chandran

For Respondents : Mr.Ma.P.Thangavel for R1
R2 - Deceased
R3 - No appearance
R4 - Left

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 01.08.2013 passed by the Motor Accident Claims Tribunal (IVth Additional District Judge, Bhavani at Erode) in MCOP.No.12 of 2011.

2. Heard Mr.J.Chandran learned counsel for the Appellant and Mr.Ma.P.Thangavel, learned counsel for the first respondent.

3. Though the Appellant/insurance company has challenged the impugned award both on the grounds (a) the quantum of compensation awarded by the Tribunal is excessive and (b) they are not liable to compensate the claimant. However, the learned counsel for the Appellant has restricted his submission only to the liability of the Appellant/insurance company to pay the compensation.

4. The only contention raised by the Appellant is that the FIR was registered only against the injured claimant and therefore, they are not liable to compensate him as he himself is a tortfeasor.

5. This Court has perused the impugned award as well as the materials and evidence available on record.

6. The accident happened when the first respondent/claimant was a rider of the motorcycle when the Tata Ace Eicher bearing registration No.N69-K-6630 insured with the Appellant dashed against the motor cycle which resulted in injuries to the first respondent/claimant. Eventhough FIR was registered only against the first respondent/claimant, the Police after investigation has filed a charge sheet which clearly reveals that the driver of the Eicher vehicle insured with the Appellant is alone responsible for the cause of the accident. The charge sheet has also been filed as a document by the first respondent/claimant before the Tribunal which has been marked as Ex.A5. No contra evidence has been produced by the Appellant/insurance company to disprove the charge sheet. The charge sheet has now become final.

7. The Tribunal under the impugned award has considered the charge sheet and held that the driver of the vehicle insured with the Appellant is alone responsible for the cause of the accident.

8. In all motor accident claims, adjudication is done based on the preponderance of probability. The Tribunal has rightly considered Ex.A5 charge sheet which has now attained finality and only thereafter has come to the right conclusion that the driver of the insured vehicle was responsible for the cause of the accident and therefore, the Tribunal held the Appellant insurance company liable to pay the compensation.

Conclusion:

9. This Court does not find any infirmity in the findings of the Tribunal. Accordingly, there is no merit in this Appeal and 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.12 of 2011 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.12 of 2011 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.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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

2.The IV Additional District Judge,
Motor Accident Claims Tribunal
IVth Additional District Court
Bhavani
Erode District

+1 cc to Mr.J.Chandran Advocate sr27310

C.M.A.No.3685 of 2013

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