

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2020

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.604 of 2013

S. Azhaganandam

..Appellant/Claimant

Versus

1.A. Rajkumar S/o. Adikesavan

2. The Divisional Manager,

The National Insurance Company Ltd.,

No.19, Officers' Line, Vellore.

(The 1st respondent was set ex-parte before the
Tribunal)

..Respondents

Prayer: Civil Miscellaneous Appeal filed under sec.173 of Motor Vehicle Act against the order and decree dated 29.11.2010 made in M.C.O.P.No.236 of 2008 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court, Tirupattur, Vellore District.

For Appellant : Mr. PA. Sudesh Kumar

For 2nd Respondent : Mr.D. Bhaskaran

R1 - Exparte

J U D G M E N T

This appeal has been filed by the appellant against the Judgment and order in M.C.O.P. No.236 of 2008 dated 29.11.2010 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court, Tirupattur, Vellore District whereby the claim petition filed by the Claimant/the appellant herein was dismissed by the Tribunal.

2. The appellant has filed the aforesaid claim petition before the Tribunal seeking for compensation of Rs.2,00,000/- (Rupees Two Lakh Only) due to the injuries sustained in the road accident. The Tribunal has dismissed the claim petition as owner of the tractor and the insurer were not made as necessary parties in the claim petition, when the accident did not take place due to the rash and negligent driving of the claimant/appellant herein.

3. Heard the learned counsel for the appellant and the learned counsel for the 2nd respondent and perused the entire documents produced before this Court.

4. It is admitted fact on considering the facts and circumstances of the case that the accident has not occurred due to rash and negligent driving of the claimant/appellant herein. vide P.W.1 oral evidence. However, the claimant has sustained injuries in road accident. If it is fault on driver of tractor, the owner of the tractor and the insurer were not made as necessary parties in the claim petition and the appeal.

5. Under this circumstances, this Court has come to the conclusion that the Claimant/appellant is not liable to get compensation on the ground of "no fault liability" taking into consideration the reliance placed by the learned counsel for the 2nd respondent/insurance company in the case "A. Sridhar Vs. United India Insurance Co. Ltd. and another in C.A. No.7823 of 2011 dated 13.09.2011" passed by the Top Court of India. According to the aforesaid Judgment, the claimant/appellant is liable to get Rs.25,000/- by way of compensation since the claimant/appellant herein has sustained injuries due to accident arisen out of use of motor vehicle.

6. In view of the above, the 2nd respondent/insurance company is directed to deposit a sum of Rs.25,000/- to the credit of M.C.O.P. No. 236 of 2008 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court, Tirupattur, Vellore District within a period of two weeks from the date of receipt of copy of this Judgment. On such deposit, the claimant/appellant herein is entitled to withdraw the aforesaid amount by filing formal application before the Tribunal.

7. In the result, the appeal is disposed of on the basis of no fault liability. Accordingly, the impugned award passed by the Tribunal is confirmed hereby. There shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

lbm

To

1. The Motor Accident Claims Tribunal
Additional District Judge, Fast Track Court,
Tirupattur, Vellore District.

Copy to :

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

+1 cc to M/s.D.Baskaran, Advocate Sr.No. 13385

+1 cc to M/s.P.A.Sudesh kumar, Advocate Sr.No. 13654

C.M.A.No.604 of 2013

PPA (CO)

RMP (22/03/2021)