

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.NO.978 OF 2013

S.Ravichandran .. Appellant/Petitioner
Vs.

1.A.Radhakrishnan
(R1 was set exparte before the Tribunal)
2.ICICI Lombard General Insurance Co. Ltd.
1st floor, Arihant plaza
No.84/85, Waltax road
Chennai-600 003. .. Respondents/Respondents

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 31.01.2013 made in M.C.O.P.No.1551 of 2012 on the file of Motor Accident Claims Tribunal, V Small Causes Court, Chennai.

For Appellant : Mr.A.Prakash
for M/s.C and K Law Firm
For R2 : Mrs.R.Sreevidhya

J U D G M E N T

This matter is heard through "Video-conferencing".

This Civil Miscellaneous Appeal has been filed challenging the order of dismissal dated 31.01.2013 made in M.C.O.P.No.1551 of 2012 on the file of Motor Accident Claims Tribunal, V Small Causes Court, Chennai.

2.The appellant is the claimant in M.C.O.P.No.1551 of 2012 on the file of Motor Accident Claims Tribunal, V Small Causes Court, Chennai. He filed the said claim petition claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by him in the accident that took place on 12.03.2012.

3.According to the appellant, on the date of accident i.e.,

on 12.03.2012 at about 19.40 hours, while he was riding in his motorcycle bearing Registration No.TN-22-AT-0418 near the junction of 7th and 3rd avenue, Ashok Nagar from North to South direction, the rider of another motorcycle bearing Registration No.TN-09-AM-1704, which came behind, rode the same in a rash and negligent manner, dashed against the appellant and caused the accident. Due to the accident, the appellant sustained grievous injuries all over the body and hence, he filed the above said claim petition claiming compensation against the respondents.

4.The 1st respondent, owner of the motorcycle bearing Registration No.TN-09-AM-1704, remained exparte before the Tribunal.

5.The 2nd respondent/Insurance Company being insurer of the motorcycle bearing Registration No.TN-09-AM-1704 filed counter statement denying the averments made in the claim petition and stated that the 1st respondent has neither intimated the accident nor produced vehicular records for verification. The rider of the motorcycle belonging to the 1st respondent did not possess valid driving license at the time of accident. There was a delay of three days in lodging the complaint. The accident has occurred only due to rash and negligent riding of the motorcycle by the appellant. Therefore, the 2nd respondent/Insurance Company is not liable to pay any compensation to the appellant. The 2nd respondent/Insurance Company has also denied the disability, nature of injuries and period of treatment taken by the appellant. In any event, the compensation claimed by the appellant is excessive and prayed for dismissal of the claim petition.

6.Before the Tribunal, the appellant examined himself as P.W.1, Mr.S.Elango, Police Official, was examined as P.W.2, Dr.J.R.R.Thiagarajan, was examined as P.W.3 and marked eight documents as Exs.P1 to P8. The 2nd respondent/Insurance Company did not let in any oral and documentary evidence.

7.The Tribunal considering the pleadings, oral and documentary evidence, dismissed the claim petition holding that the appellant has not proved that the alleged injuries sustained by him are due to the accident.

8.Against the said order of dismissal dated 31.01.2013 made in M.C.O.P.No.1551 of 2012, the appellant has come out with the present appeal.

9.The learned counsel appearing for the appellant contended that the appellant met with an accident on 12.03.2012. In the accident, he suffered fracture over right hand, lacerated injuries over left leg, abrasions over right leg and contusion

over hip. He has taken treatment in Sidney Hospital for months together, underwent surgeries and proved the same by marking documents as Exs.P1 to P6. The Tribunal without considering the same erred in dismissing the claim petition on the ground that the appellant has not proved that the injuries suffered by him are due to the accident caused by the rider of the motorcycle bearing Registration No.TN-09-AM-1704 belonging to the 1st respondent. The Tribunal failed to consider the evidence available on record in proper perspective, erroneously dismissed the claim petition and prayed for setting aside the award of the Tribunal and for a direction to pay compensation to the appellant.

10. The learned counsel appearing for the 2nd respondent/ insurance company made her submissions in support of the award passed by the Tribunal and prayed for dismissal of the appeal.

11. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the 2nd respondent/ Insurance Company and perused the entire materials on record.

12. From the materials available on record, it is seen that it is the contention of the appellant that while he was riding his motorcycle bearing Registration No.TN-22-AT-0418 on 12.03.2012, the rider of the motorcycle bearing Registration No.TN-09-AM-1704 belonging to the 1st respondent rode the same in a rash and negligent manner, dashed against the motorcycle driven by the appellant and caused the accident. In the accident, the appellant suffered fracture and grievous injuries all over the body. The appellant has taken treatment as in-patient in Sidney Hospital, Nanganallur, Chennai, underwent surgery and claimed compensation. To substantiate this contention, the appellant examined himself as P.W.1 and marked the documents as Exs.P1 to P5. The appellant has examined the Police Official as P.W.2 and through him, marked Ex.P6, which is alleged to be a xerox copy of the original medical certificate Ex.P1. In Ex.P6, there are insertions to the effect "RTA" next to the word medical certificate and in the end "grievous". The rider of the motor cycle belonging to the 1st respondent was charge sheeted based on Ex.P6, a manipulated document. The Tribunal considering the manipulation in Ex.P6 did not accept the admission of guilt by the rider of the motorcycle in the criminal proceedings and held that the appellant is trying to get compensation based on manipulated document. The Tribunal further held that the appellant did not come forward to rebut the evidence of P.W.2 and Ex.P6 and has not come out with records to substantiate his case that he suffered injuries in the accident that occurred on 12.03.2012 and the rider of the motorcycle belonging to the 1st respondent was responsible for the accident. The appellant in his evidence has admitted that

Ex.P6 is copy of Ex.P1. The appellant did not examine the Doctor who treated him. The Tribunal considering all the above materials in proper perspective, dismissed the claim petition by giving cogent and valid reason. There is no reason to interfere with the said award of the Tribunal.

13.In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

kj

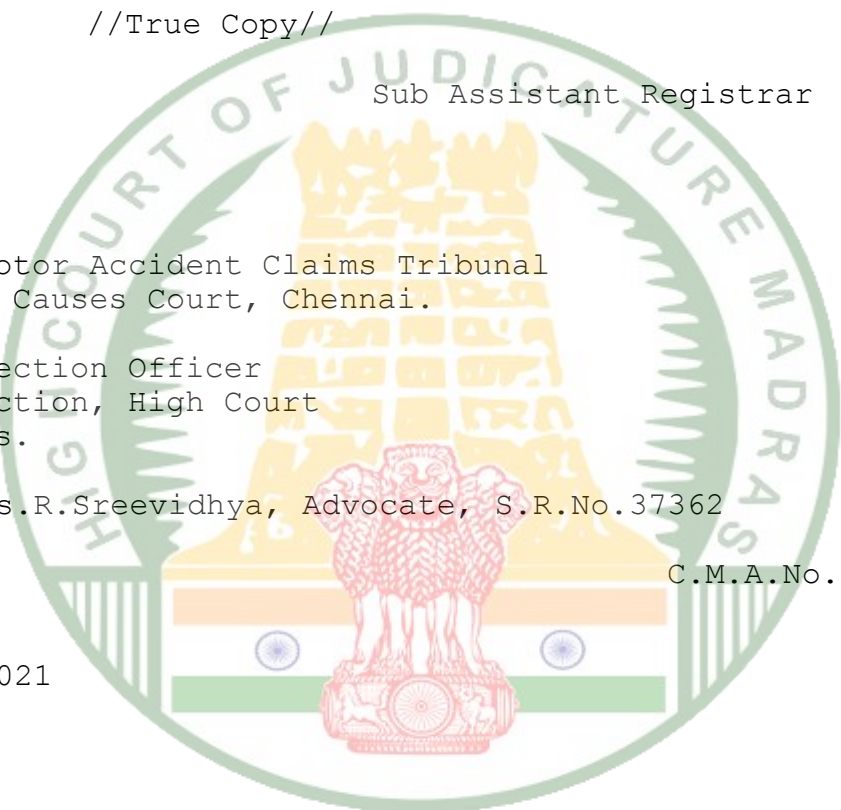
To

1. The Motor Accident Claims Tribunal
Small Causes Court, Chennai.
2. The Section Officer
VR Section, High Court
Madras.

+1cc to Mrs.R.Sreevidhya, Advocate, S.R.No.37362

C.M.A.No.978 of 2013

VBA (CO)
CS/05/07/2021



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