

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1846 of 2017

R.Natarajan

.. Appellant/ Petitioner

Vs.

1.R.Ramachandran

2.The Branch Manager

M/s.Royal Sundaram Alliance

Insurance Company Limited

Bus plaza, 3rd floor, 5G Lawsons Road

Cantonment, Trichy - 620 001. .. Respondents/ Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 18.04.2017 made in M.C.O.P.No.282 of 2015 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate's Court, Perambalur.

For Appellant : Ms.S.Lalitha
for Ms.C.Sangamithirai

For R1 : No appearance

For R2 : Mr.K.Vinod for
Ms.Elveera Ravindran

J U D G M E N T

The Civil Miscellaneous Appeal is filed challenging the order of dismissal dated 18.04.2017 made in M.C.O.P.No.282 of 2015 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate's Court, Perambalur.

2.The appellant is claimant in M.C.O.P.No.282 of 2015 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate's Court, Perambalur. He filed the said claim petition claiming a sum of Rs.1,00,000/- as compensation for the damages caused to the TVS Vego two wheeler in the accident that took place on 07.07.2014.

3.The Tribunal considering the pleadings, oral and documentary evidence let in by the appellant, dismissed the claim petition.

4.Against the order of dismissal dated 18.04.2017 made in M.C.O.P.No.282 of 2015, the appellant has come out the present appeal.

5.The learned counsel appearing for the appellant/claimant contended that the Tribunal erred in not properly appreciating the evidence of appellant as well as P.W.2, Junior Assistant from the R.T.O., Perambalur. The appellant has produced photographs to show that the damages caused to the vehicle and also the bills for having spent money for repairing the vehicle. The vehicle was inspected by the R.T.O. with regard to nature of damages. The Tribunal failed to see that the 2nd respondent did not let in any evidence to disprove the evidence of the appellant and prayed for allowing the appeal and for granting compensation to the appellant.

6.Though notice has been served on the 1st respondent and his name is printed in the cause list, there is no representation on behalf of him either in person or through counsel.

7.Learned counsel appearing for the 2nd respondent made his submissions in support of the award passed by the Tribunal and prayed for dismissal of the appeal.

8.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the 2nd respondent and perused all the materials available on record.

9.It is the contention of the appellant that in the accident, the two wheeler belonging to the appellant was totally damaged in the accident and the same was not denied by the driver of the lorry belonging to the 1st respondent. P.W.2/Junior Assistant from the R.T.O. deposed that the two wheeler was not in a condition to be used. At the same time, it is admitted by P.W.2 that in the Motor Vehicle Inspector's Report, it is mentioned that the vehicle was not in a condition to be used. From the materials available on record, it is seen that the vehicle was inspected by the Motor Vehicle Inspector only in the office of the R.T.O. The appellant has not examined anybody to prove that as to how the vehicle was taken to R.T.O. From the order of the Tribunal, it is seen that the appellant claimed damages to the vehicle. The vehicle was repaired by Lakshmi Agency and Exs.P3 & P4 were marked to prove the expenses

incurred by the appellant. The appellant has not examined anybody from the said Lakshmi Agency to prove Exs.P3 and P4. In addition to that, the approved surveyor has not inspected the vehicle and certified the damages caused to the vehicle. The Tribunal considering the discrepancies in the evidence of the appellant as PW.1 & P.W.2, failure on the part of the appellant to examine anybody from the said Lakshmi Agency and the vehicle was not certified by the authorised surveyor of the 2nd respondent/Insurance Company, dismissed the claim petition. In view of the above materials, there is no error in the said finding of the Tribunal warranting interference by this Court.

10.For the above reasons, the Civil Miscellaneous Appeal stands dismissed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Judicial Magistrate
The Motor Accident Claims Tribunal
Perambalur.

2.The Section Officer
V.R.Section, High Court, Chennai.

1 cc to M/s.Elveera Ravindran, Advocate, Sr. 11460

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C.M.A.No.1846 of 2017

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