

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 09.03.2020  
CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A. No. 2526 of 2017

Rajkumar .. Appellant/ Petitioner

Vs.

1. Elumalai
2. The Divisional Manager  
National Insurance Company Limited  
Officer's Line  
Vellore.

3. K.Kuppan ..Respondents/ Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 02.11.2016, made in M.C.O.P. No. 196 of 2013, on the file of Motor Accidents Claims Tribunal, Special Subordinate Judge, Tirupattur.

For Appellant : Ms. A.Subadra  
For Ms. M.Malar  
For Respondents : No appearance ?- (For R1 & R3)  
Mr. J.Chandran (For R2)

J U D G M E N T

This Civil Miscellaneous Appeal was filed against the judgment and decree dated 02.11.2016 passed in M.C.O.P. No. 196 of 2013.

2. The accident occurred on 02.10.2010 at about 18.45 hours and the claimant sustained grievous injuries. The petitioner's father was riding his TVS 50 vehicle bearing registration no. TN 23 U 0720. The injured is none other than his son, who was a pillion rider. The petitioner's father was riding the vehicle towards Thirupattur near C.K.Ashramam Bus Stop at about 6.45 p.m. and at that time one Hero Honda Splendor bearing registration No. TN 23 BX 1390 driven by its driver very rash and negligent manner with high speed, without following any traffic rules. Due to the accident the claimant has got grievous injury and his left leg got fractured and the petitioner has got grievous blood injury also. The TVS vehicle also fully damaged. The petitioner was taken for treatment to the Government Hospital, Thirupattur and thereafter, taken treatment at Sri

Narayana Hospital & Research Centre, Vellore and admitted as in patient and undergone one surgery on his left leg and fixed rod. A case was registered by the Thiruppattur police station in Crime No. 703 of 2010 against the driver of TVS 50 vehicle bearing registration no. TN 23 U 0720 under sections 279 337 and 338 IPC. The accident took place due to rash and negligent driving of the TVS 50 driver and the trial court proceed on the basis of these facts. The claimant is the son of the driver driving TVS 50 against whom the criminal case was registered. In other words, the criminal case was registered against the father of the claimant. The insurance company filed a counter by stating that at that time one Kuppan i.e. father of the claimant without possessing valid driving licence was coming in the opposite direction in the TVS 50 bearing registration no. TN 23 U 0720 in a rash and negligent manner and dashed against the Hero Hondasplender Motor Cycle and thereby, caused the accident. The Thiruppattur taluk police station after receiving the complaint from the first respondent and after conducting an enquiry in full, registered an FIR and charge sheet as against the rider of TVS 50 under Sections 279, 337 and 338 IPC in Crime no. 703 of 2010.

3. Considering these facts and circumstances, the Tribunal arrived at conclusion that mere acquittal in a criminal case cannot be exoneration from the liability to pay compensation. The factum regarding the accident was established and further the criminal case was registered against the father of the claimant/third respondent, who was the driver of the TVS 50 and was not possessing any valid driving licence as well as any valid insurance policy. Under these facts and circumstances, the Tribunal fixed the liability on the third respondent, who is none other than the father of the claimant. The Tribunal awarded a sum of Rs. 1,33,359/- is to be paid by the third respondent to the claimant.

4. This court is of the considered opinion, the facts and circumstances reveals that the accident occurred on account of the negligence committed by the third respondent, who is the father of the claimant while driving the TVS 50 vehicle, the criminal case was registered against the third respondent though ended with an order of acquittal that cannot be a bar for grant of compensation by the Tribunal against the third respondent, in view of the fact that the negligent was established only as against the third respondent. The first respondent who is a complainant registered the criminal case before the police station and the police authority also conducted an enquiry and under these circumstances, the liability cannot be shifted as against the first respondent or the second respondent.

5. Therefore, this Court do not find any perversity or infirmity as such the findings arrived by the Tribunal and the appellant has not established any acceptable ground for the purpose of reversing the judgment and decree passed by the Tribunal. Thus, the judgment and decree dated 02.11.2016 passed in M.C.O.P. No. 196 of 2013 is confirmed and the Civil Miscellaneous Appeal stands dismissed. No costs.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

may a

To

- 1.The Special Sub Judge  
Motor Vehicle Accident Claims Tribunal  
Thiruppattur.
- 2.The Section Officer,  
V.R Section,  
High Court, Madras.

+1cc to M/S.M.Malar, Advocate SR.No. 21103  
+1cc to Mr.J.Chandran, Advocate SR.No. 20729

C.M.A. No. 2526 of 2017

A.SK(21.04.2021)

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