



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 09.12.2020

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.1368 of 2007

Rajesh

.. Appellant/Claimant

vs.

1.Stalin Babu
2.The Branch Manager,
United India Insurance Co., Ltd.,
12-A, Kovai Road,
Karur.

(R-1 set exparte by the Tribunal,
hence, notice may be given up
against 1st respondent)

.. Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, against the Judgment and Decree made in M.C.O.P.No.235 of 2001, dated 25.09.2006 by the Motor Accident Claims Tribunal, (FTC-II), Pattukottai.

For Appellant : Mr.S.Deenadhayalan
For R2 : Mr.A.S.Mathiyalagan
For R1 : Given up

J U D G M E N T

This Civil Miscellaneous Appeal is directed against the judgment and order of the Motor Accident Claims Tribunal, (FTC-II), Pattukkottai passed in M.C.O.P.No.235 of 2001, dated 25.09.2006, where, the claim of the appellant was dismissed by the Tribunal.

2.The case of the claimant before the Tribunal was that on 22.07.2001 when he was studying +1 in Khadhar Mohideen Higher Secondary School at Athirampatinam, he along with one Satheeshkumar in a bicycle and Kumaresan and Manikandan in an another bicycle at 7.30 a.m., were travelling near Vallikollaikkadu burial ground, a jeep bearing Registration No.TN-47-A-3363 came in a high speed and hit against them. In the impact, all the four persons sustained injury and immediately, they were taken to Shifa Hospital and thereafter, they were referred to Thanjavur Medical College Hospital for better treatment. A case has been registered by the Athirampatinam police station in Cr.No.233 of 1992 for the offences



under Sections 279, 337 of IPC.

3.The claimant further stated that in the accident he sustained fracture in the right hand and right leg. There is a injury on the Head and Lips also. Therefore, he took treatment in Thanjavur Medical College Hospital from 22.07.2001 to 01.08.2001 and thereafter, he has taken a treatment in a private hospital.

4. The second respondent/Insurance Company filed a counter, in which, it has been stated that the vehicle bearing registration No.TN-A-3363 belonging to the first respondent was introduced in this case only to make a false claim. This statement was made on the basis that in the FIR it has been stated that a Jeep bearing Registration No.TNX-3368 has been mentioned for causing the injury to the claimant. It is also stated that the final report filed against the driver of the first respondent is not binding upon the Tribunal. They have also disputed the claim of compensation and it is stated that it was exorbitant and excessive.

5. In the said accident, four persons sustained injuries and one of the injured Manikandan succumbed to the injury and hence, his legal representatives filed the claim petition. All the claim petitions were taken up together and by a common judgment, the Tribunal held that the vehicle of the first respondent bearing Registration No.TN-47-A-3363 was introduced to make a false claim. On that score, all the claim petitions were dismissed by the Tribunal. It appears that the other claimants except the appellant herein, accepted the judgment of the Tribunal and they have not filed any appeal.

6. Mr.S.Deenadhayalan, learned counsel appearing for the appellant would argue that the Athirampattinam police has registered FIR on the basis of the complaint given by one of the injured namely, Satheeshkumar and the same was marked as Ex.P1. According to the learned counsel for the appellant, he was sustained injury in the accident and hence, the vehicle number was wrongly mentioned as TNX-3368. During the investigation, the police stated that the vehicle of the first respondent caused accident and hence, final report was also filed, which was marked as Ex.P5.

7. It is also contended that the eye witness to the occurrence, namely, Vadukanathan was examined in M.C.O.P.No.287 of 2001, in which, he has categorically stated that the first respondent has driven the vehicle in a rash and negligent manner and caused the accident.

8. This Court is of the view that merely because the vehicle number was wrongly mentioned in the FIR, that cannot be a good ground to reject the case of the claimants.



9. According to the appellant, when he was proceeding along with three other persons in two bicycles on 22.07.2001 at about 7.30 a.m., the Jeep owned by the first respondent came in a rash and negligent manner and hit against them. It is not in dispute that the defacto complainant Satheeshkumar also accompanied the claimant and immediately after the accident, he gave a statement to the Investigating Officer stating that the vehicle involved in the accident was TNX-3368. An employee of the second respondent in his evidence has stated that the vehicle bearing No.TNX-3368 is not insured with the second respondent and the vehicle of the first respondent was falsely inducted in this case for getting compensation.

10. It is also pertinent to note that the vehicle of the first respondent was subjected to test by the Motor Vehicle Inspector after four days, i.e., on 26.07.2001. That apart in the FIR, the said Satheeshkumar mentioned that the Jeep TNX-3368 with Gray colour dashed against them, where the vehicle of the first respondent is apple-red colour. The Tribunal considering the evidence given by the witnesses and materials available on record held that the vehicle bearing Registration No.TN-47-A-3363 was not involved in the accident. This shows that the claim petition came to be dismissed not on the only ground that the vehicle number was wrongly mentioned but on consideration of other materials also. This Court finds no error in the said judgment, warranting interference by this Court.

11. For the reasons stated supra, the Civil Miscellaneous Appeal is dismissed as devoid of merits. No costs.

Sd/-

Assistant Registrar(CS-III)

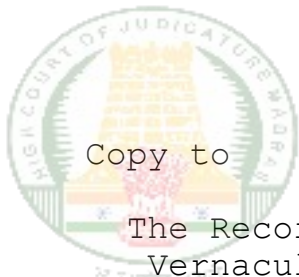
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/ /2021

Sub Assistant Registrar(CS)

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To

The Additional District Judge,
The Motor Accident Claims Tribunal,
(FTC-II), Pattukottai.



Copy to

The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1 CC to Mr.A.S.Mathialagan, Advocate SR.No. 24833

Note: *In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.*

JUDGMENT MADE IN
C.M.A(MD) No.1368 of 2007
09.12.2020

NA(CO)
TR(04.01.2021) 4P 5C