



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2020

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.M.A.(MD)No.815 of 2010

and

M.P.(MD)No.1 of 2010

WEB COPY

The Oriental Insurance Co. Ltd.,
through its Branch Manager,
(Divisional Office - Nellai District
Tirunelveli - 11)
D.D.J. Centre, I Floor,
Vadaseri Bus Stand Opposite,
Nagercoil - 629 001.

: Appellant/3rd Respondent

.. Vs ..

1.Commr. Dr.P.Yohannan

: 1st Respondent/Petitioner

2.Velmurugan

: 2nd Respondent/1st Respondent

3.The United India Insurance Company Limited,
Rep. by Branch Manager,
(Divisional Office, 38 Anna Salai, Chennai-2)
Assisi Building,
Vappamoodu Junction, Nagercoil,
Kanyakumari District.

: 3rd Respondent/2nd Respondent

(R2 remained ex-parte before the
lower Court)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying to set aside the Award of Rs.1,60,154/- (Rupees One Lakhs Sixty Thousand One Hundred and Fifty Four Only) (50% of the award amount Rs.80,077/-) passed in M.C.O.P.No.71 of 2004, dated 28.10.2009, on the file of the Motor Accidents Claims Tribunal cum I Additional Subordinate Judge, Nagercoil.

For Appellant : Mr.K.Bhaskaran

For Respondent 1 : Mr.S.C.Herold Singh

For Respondent 2 : Remained ex-parte before the Tribunal

For Respondent 3 : Mr.J.S.Murali

JUDGMENT

This Civil Miscellaneous Appeal is directed against the award of the Motor Accident Claims Tribunal in M.C.O.P.No.71 of 2004.



2.Heard the learned Counsel appearing for the appellant and the respondents 1 and 3 and perused the materials available on record.

3.The brief facts that are necessary for the disposal of this Civil Miscellaneous Appeal are as follows:

3.1.The appellant is the third respondent in the claim petition preferred by the first respondent, claiming compensation to the tune of Rs.5,00,000/-. The Tribunal has found that the claimant/first respondent and second respondent are responsible for the accident. Hence, after finding that the first respondent/claimant is also responsible for the accident, the Tribunal fixed the liability of the insured to 50% each. Hence, the award was against the appellant and the third respondent in this Civil Miscellaneous Appeal who are the insurance companies.

4.The learned Counsel appearing for the appellant submitted that the claimant is not entitled to get compensation as he was the owner of the vehicle. Though the learned Counsel for the appellant submitted that the accident was solely caused by the claimant/first respondent, the learned Counsel for the appellant is unable to substantiate that the accident was caused solely by the first respondent. Though the learned Counsel for the appellant vehemently contended that the Tribunal has not considered the evidence properly, he is unable to demonstrate before this Court how the findings are contrary to the records or evidence adduced on behalf of the parties. The final submission of the learned Counsel for the appellant that the insured is not entitled to claim compensation for the personal injuries suffered by him out of the accident is not supported by any legal principle or statutory provision. In such circumstances, this Court is unable to accept the contention of the learned Counsel for the appellant.

5.As a result, this Civil Miscellaneous Appeal is dismissed as devoid of any merits. The award of the Motor Accident Claims Tribunal (First Additional Sub Judge), Nagercoil in M.C.O.P.No.71 of 2004 is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



To

The I Additional Subordinate Judge,
Motor Accident Claims Tribunal, Nagercoil.

Copy to:

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.(2 Copies)

+1 CC to M/s.K. BHASKARAN, Advocate (SR-18310[F] dated 29/09/2020)

+1 CC to M/s.J.S. MURALI, Advocate (SR-18321[F] dated 29/09/2020)

C.M.A. (MD) No. 815 of 2010

28.09.2020

SGS (CO)

NR (14.10.2020) 3P 6C