



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CMA No. 2878 of 2010

Inbanathan

....Appellant/Petitioner

Vs

1. P.Gandhari

2. Divisional Manager,
United India Insurance Company Ltd.,
M.M.Reddy Complex,
Old Bangalore Road,
Hosur Town and Taluk,
Dharmapuri District.

....Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the judgment and decree dated 06.02.2008 made in MCOP.No.2338 of 2003 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Krishnagiri.

For Appellant : Mr.V.Kumaravelan
For Respondent-1 : Not ready in notice
For Respondent- 2 : Mr.S.Arun Kumar

J U D G M E N T

This appeal is laid as against the judgment and decree dated 06.02.2008 made in MCOP.No.2338 of 2003 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Krishnagiri.

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status before the Tribunal.

3. The case of the claimant is that on 01.02.2003, when the claimant was driving his auto bearing Registration No.TN-43-5605 with passengers, one cyclist, who was proceeding before the said auto, all of a sudden, started to cross the road without hearing the horn sound given by the claimant. Therefore, to avoid hitting on the cyclist, the claimant suddenly turn the auto towards the right side of the road and applied sudden brake. Thereby the auto capsized into the road side pit. Due to the accident, the claimant sustained multiple



injuries all over the body. He was taken to the Government Hospital, Hosur, thereafter, he was taken to the private hospital. Hence, the claim petition.

4. On perusal of the records, it is seen that claimants marked Exs.P1 to P5. Ex.P1 is the FIR registered as against the claimant and Ex.P5 disability certificate issued by PW.2. Admittedly, the doctor, who treated the claimant was not examined to assess the disability. That apart, the FIR reveals that only on the rash and negligent driving of the claimant, the accident took place. Therefore, he is not entitled for any claim from the second respondent as the insurer of the vehicle, which was driven by the claimant. According to the claimant, due to accident he suffered fracture on his left humerus. But the claimant failed to prove the same by documentary evidence. The documentary evidence except the disability certificate, which was marked as Ex.P5, no other documents were marked by the claimant. As the claimant has not claimed over and above the sum awarded as compensation to the claimant, this Court finds no infirmity or illegality in the order passed by the Tribunal.

5. In fine, the judgment and decree dated 06.02.2008 made in MCOP.No.2338 of 2003 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Krishnagiri, is hereby confirmed and the Civil Miscellaneous Appeal stands dismissed. There shall be no order as to costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Lpp

To

1.The Motor Accident Claims Tribunal,
Additional District Judge,
Krishnagiri.

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

+1 CC to Mr.V.Kumaravelan, Advocate sr 25810.

+1 CC to Mr.S.Arun Kumar, Advocate sr 26406.

CMA No. 2878 of 2010

PP(CO)
SP(27/10/2021)