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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2021

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

C.M.A.No.1425 of 2013

S.Kumar

... Appellant/Claimant

Vs.

1.S.Ravi

2.The New India Assurance Company,
No.21, Pattullos Road,
Chennai 600 002.

... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the fair and decreetal order dated 17.06.2009 passed in M.C.O.P.No.418 of 2007 on the file of the Additional District and Sessions Judge (Fast Track Court No1), Poonamallee.

For Appellant : Mr.R.Bharath Kumar

For Respondents : Mr.K.Vinoth for

Mrs.Elveera Ravindran for R2

R1 notice unserved

J U D G M E N T

This civil miscellaneous petition is filed against the fair and decreetal order dated 17.06.2009 passed in M.C.O.P.No.418 of 2007 on the file of the Additional District and Sessions Judge (Fast Track Court No.1), Poonamallee.

2. The appellant claimant while going by walk on the safer side of the road leading to Chitlapakkam from Velacherry Main Road, the respondent's vehicle was trying to overtook the two wheeler with rash and negligent manner, hit the petitioner and he sustained injuries. Therefore, he filed a claim petition claiming compensation of Rs.3,89,000/- (restricted to Rs.2,50,000/-).

3. The learned counsel for the appellant submitted that the appellant had adduced oral documentary evidence before the Tribunal. According to the appellant, Ex.P2 dated 22.03.2007, filed along with the claim petition itself reveals that he has taken treatment at Government Hospital, Tambaram. P.W.2 Doctor Saichandran was examined and he deposed that the appellant



sustained fracture on his leg. Therefore, he submitted that the Tribunal has failed to consider the case of the appellant in proper perspective and simply rejected the claim petition without appreciating the case of the appellant.

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4. According to the learned counsel for the second respondent, there is no direct evidence to show that the appellant was sustained injury due to the said accident and admittedly, he was admitted in hospital after 13 days from the date of the accident. The other records were also considered by the Tribunal, wherein, it was proved that there was no corroborating evidence of the case by the appellant to prove that the appellant sustained injury due to the accident held on 05.04.2007. Therefore, it was rightly rejected by the Tribunal.

5. On analysing the aforesaid submissions of the learned counsel for the parties and perused the judgment of the learned Tribunal, it is clear that the appellant has not explained the delay in admitted in the hospital after the accident took place on 05.04.2007 and no explanation for delay in taking treatment for a period of 13 days and no other evidence was placed before the Tribunal to prove that the appellant was sustained injury due to the said accident.

6. Therefore, in the absence of any material or evidence, this Court finds that there is no force in the contention of the appellant. Therefore, this Court is not inclined to interfere with the findings of the Tribunal. Therefore, C.M.A.No.1425 of 2013, stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

Gsk

To

1.The Motor Accident Claims Tribunal,
The Additional District and Sessions Judge
(Fast Track Court No1), Poonamallee.

Copy To

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

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.20641

+1cc to Mr.Elveera Ravindran, Advocate, S.R.No.20306

C.M.A.No.1425 of 2013

PVS(CO)

GN(29/09/2021)