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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.M.A.No.874 of 2012 and
MP.No.1 of 2012

United India Insurance Co.Ltd.,
Sankari

...Appellant/ 2nd Respondent

Versus

1.Ashok Kumar
2.P.Loganathan

...Respondents / Petitioners
and 1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the award and decree dated 27.02.2004 made in M.C.O.P.No.717 of 2001 on the file of the learned Motor Accidents Claims Tribunal, Principal Subordinate Judge, Salem.

For Appellant : Mr.S.Arunkumar

For Respondents

For R1 : Mr.C.Anbu
for Mr.R.Thangavel

R2 : Notice served

J U D G M E N T

This appeal has been laid as against the award and decree dated 27.02.2004 made in M.C.O.P.No.717 of 2001 on the file of the learned Motor Accidents Claims Tribunal, Principal Subordinate Judge, Salem., thereby awarded the compensation to the tune of Rs.3,34,820/-.

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

3. Heard, Mr.S.Arunkumar, the learned counsel for the appellant and Mr.C.Anbu, the learned counsel for the first respondent.



4. The learned counsel for the appellant raised the only ground that the claimant produced wound certificates which are marked as Ex.P3, P15 and P16. The claimant also failed to prove that the bus he travelled whether belongs to the first respondent or some other bus, which was insured with the second respondent. Therefore, he has sustained injuries by another bus as envisaged in Ex.P3 and subsequently fabricated another wound certificate which is marked as Ex.P15 and he made false claim. She also submitted that the assessment assessed by the PW2 and PW3 at 25%.

5. On perusal of the wound certificate and disability certificate, the claimant sustained only partial disability and as such the Tribunal awarded compensation payable by the respondents. On perusal of Ex.P3, P15 and P16 revealed that Ex.P3 is nothing but typed version of Ex.P16. When the claimant was travelling in a bus belong to the first respondent, on 23.04.2001 due to rash and negligent driving of the bus belongs to the first respondent, the claimant was thrown out from the bus and as such he fell down. Due to which he sustained fracture and also head injury. Due to the injury, his disability was assessed at 25% and accordingly compensation was awarded at Rs.3,34,820/-. FIR was registered on 23.04.2001 as against the driver of the first respondent which is marked as Ex.A1. Therefore, the claimant proved the accident and also the bus belongs to the first respondent insured with the second respondent. Therefore, the Tribunal rightly awarded compensation payable by the respondents jointly and severally and this Court finds no infirmity or illegality in the order passed by the court below.

6. Accordingly, this civil miscellaneous appeal is dismissed. Consequently, connected Miscellaneous Petition is closed. No Costs. The second respondent herein and the appellant/Insurance Company are directed to deposit the total compensation of Rs.3,34,820/- with accrued interest and costs as determined at by the Tribunal jointly and severally, within a period of six weeks from the date of receipt of a copy of this judgment, after adjusting the amount, if any, already deposited. On such deposit, the first respondent herein / claimant is permitted to withdraw in accordance with law, less the amount if any already withdrawn by them.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Principal Subordinate Judge,
Motor Accidents Claims Tribunal,
Salem.

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Copy to

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

+1cc to M/s.M.R.Thangavel, Advocate, S.R.No.26106
+1cc to M/s.Arunkumar, Advocate, S.R.No.25783

C.M.A.No.874 of 2012

GMI (CO)
RGA(05/08/2021)