



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 08.07.2021

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2270 of 2016
and
C.M.P.No.15999 of 2016

Muthuraja ...Appellant/3rd Respondent
..Vs..

1. R. Poonurangam, W/o. Late Ramesh
2. Minor R. Kanishkar, S/o. Late Ramesh
3. Minor R. Yazlini, d/o. late Ramesh
- 4.M. Saraswathi,
W/o. Mariappan .. Respondents1 to 4/ Petitioners
5. K. Devaraj, S/o. Kolanathan
6. T. Bakkiyalakshmi, W/o. Thangavel
7. Territoty Manager
Bharat Petroleum Corporation
Bottling Plant, Peelamedu
Coimbatore Division,
Coimbatore ...Respondents5 to 7/ Respondents

PRAYER: Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988 praying to set aside the judgment and award passed in MCOP No.711 of 2014 dated 15.06.2016 on the file of the Motor Accidents Claims Tribunal (Special District Court), Erode.

For Appellant : Mr.K.G.Vasudevan
For R1 : Mr. I.C. Vasudevan
R2 and R3 : Minors rep. by R1
For R5 and R6 : No appearance
For R7 : M/s. King and Partridge

JUDGMENT

This appeal has been filed challenging the award dated 15.06.2016 passed by the Motor Accidents Claims Tribunal (Special District Court), Erode, in MCOP No.711 of 2014.

2. The appellant is the third respondent in MCOP No.711 of 2014. The Tribunal, under the impugned order, has directed the appellant and the fifth respondent to jointly and severally to pay the compensation to the claimants, who are respondents 1 to 4 herein.

3. The contention of the appellant is that he is no way responsible for the cause of accident and further he would submit that he was neither the insurer nor the owner or lessee



in respect of the vehicle, which was involved in the accident, which resulted in a compensation claim being made by the respondents 1 to 4 in this appeal.

4. The learned counsel for the appellant drew the attention of this Court to the counter statement filed before the Tribunal in MCOP No.711/14, wherein the appellant has categorically pleaded that he was neither the insurer, nor the owner or lessee of the vehicle, which was involved in the accident, which resulted in a claim being made by the respondents 1 to 4 in this appeal. The counter statement filed by the appellant before the Tribunal reads as follows:

"The claim petition filed by the petitioners has been read over and explained to this respondent in Tamil and he does not admit any of the allegations contained therein. This respondent is not at all a necessary party to the claim petition. The petitioner cannot make any claim against the respondent. There is no cause of action to claim compensation from this respondent. The first respondent in the petition was not in any manner connected with this respondent's business and neither the first respondent is an employee under this respondent. There is no vicarious liability with respect to the claim of compensation by the petitioner on the part of this respondent."

5. Before the Tribunal, the claimants have filed 7 documents, which were marked as Exs.P1 to P7 and three witnesses were examined on their side as P.Ws.1 to 3. On the side of the respondents in MCOP No.711/14, three witnesses were examined as R.Ws.1 to 3 and one document was filed, which was marked as Ex.R1. As seen from the documents filed by the claimants before the Tribunal, which were marked as Ex.P1 to P7, the alleged lease agreement in which the appellant is stated to be the lessor has not been filed. The appellant has also not been examined as the witness before the Tribunal. A categorical stand has been taken by the appellant that he is no way connected with the accident and he is not liable to compensate the claim of the claimants, who are respondents 1 to 4 in this appeal. This Court, after giving due consideration to the aforementioned factors, is of the considered view that the matter should be remitted back to the Tribunal for fresh consideration to enable the appellant to adduce contra evidence to establish his case that he is no way responsible for the cause of accident and he is not the lessor of the gas cylinders, which were found at the time of the accident.

6. For the foregoing reasons, the impugned award dated 15.06.2016 passed by the Motor Accidents Claims Tribunal (Special District Court), Erode, in MCOP No.711/14 is hereby quashed and the matter is remitted back to the very same Tribunal for fresh consideration on merits and in accordance



with law and the Tribunal is directed to pass an award within a period of six(6) months from the date of receipt of a copy of this order after affording sufficient opportunities to the appellant as well as the respondents to adduce further evidence. This Court, while remitting the matter back, has not expressed its views on the merits of the matter. No prejudice would be caused to the parties if the matter is remitted back to the very same Tribunal for fresh consideration.

7. With the above observations, the Civil Miscellaneous appeal is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(Commercial cases)

//True Copy//

Sub Assistant Registrar

bga
To

The Motor Accidents Claims Tribunal
(Special District Court), Erode

Copy to:

The Section Officer,
VR Section,
High Court, Madras

+1 cc to Mr.Manohar Ponraj, Advocate Sr.NO. 32162

+1 cc to M/s. King and Partridge, Advocate Sr.NO. 32266

C.M.A.No.2270 of 2016
and

C.M.P.No.15999 of 2016

PM(CO)

A.SK(25.11.2021)