



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:17.04.2021

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.1452 of 2010

Natarajan ... Appellant/Claimant

vs.

1.Maheswari

2.The National Insurance Co., Ltd.,
2A, Prakasam Road, T. Nagar,
Chennai.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, against the order and decretal order passed in M.C.O.P.No.49 of 2006 on the file of the Motor Accident Claims Tribunal(Chief Judicial Magistrate), Karur, dated 30.03.2010.

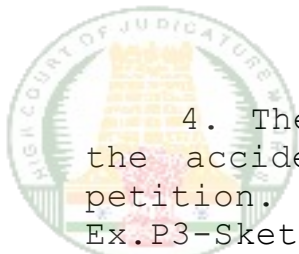
For Appellant	: Mr.M.Karthikeya Venkitachalapathy
For R-1	: Mr.A.Shajahan
For R-2	: Mr.J.S.Murali

J U D G M E N T

This Civil Miscellaneous Appeal is directed against the award of the Motor Accident Claims Tribunal(Chief Judicial Magistrate), Karur made in M.C.O.P.No.49 of 2006, dated 30.03.2010.

2. The claimant is the appellant before this Court. He filed the claim petition, claiming compensation of Rs.4,00,000/-. According to the claimant, on 09.02.2005 at about 3.00 p.m., when he was travelling in a Mini Auto bearing Registration No.TN 57 H 0931, as the owner of the goods, the Mini Auto capsized and he sustained injuries and fracture. Immediately, he was admitted in Aravind Hospital, Namakkal and he took treatment from 09.02.2005 to 26.02.2005 and he spent huge amount towards medical expenses and he is entitled to the compensation from the owner of the Mini Auto as well as the insurer.

3. The claim petition was resisted by the Insurance Company disputing the averments made in the claim petition. It is stated that the claimant and the Driver of the vehicle were brothers and he travelled as a gratuitous passenger in a goods vehicle. Hence, they are not liable to pay compensation to the claimant.



4. The claimant gave evidence as P.W.1 and has spoken about the accident in the line of the averments made in the claim petition. In support of his evidence, he marked Ex.P1-F.I.R, Ex.P3-Sketch, Ex.P4-Motor Vehicle Inspector's Report, Ex.P5-Charge sheet and Ex.P6-Judgment in the criminal case. The documents produced by the claimant was to prove that the Driver of the Mini Auto was prosecuted and convicted by the criminal Court.

5. From a perusal of the evidence, it is evident that in the F.I.R, the injured/appellant merely stated that he was working as a Coolie and he travelled in the Mini Auto at that relevant point of time. He did not mention that he travelled as the owner of the goods. The Tribunal after verifying the averments made in the F.I.R., came to the conclusion that the claimant has developed his case to make a false claim from the Insurer of the vehicle. The Tribunal having held so, directed the owner of the vehicle to pay the compensation of Rs.1,34,000/-.

6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. I have carefully gone through the evidence and other relevant materials placed before this Court. However, I do not find any infirmity in the conclusion reached by the Tribunal. It is settled law that if an injured is a gratuitous passenger in a goods vehicle, pay and recovery cannot be ordered.

8. In view of the above, the award passed in M.C.O.P.No.49 of 2006 on the file of the Motor Accident Claims Tribunal(Chief Judicial Magistrate), Karur, dated 30.03.2010, is confirmed and the first respondent is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is permitted to withdraw the entire award amount by making necessary application before the Tribunal. No costs.

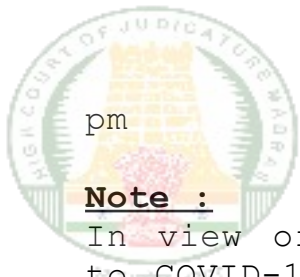
Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Karur.
- 2.The Record Keeper-2 copies
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.J.S.MURALI, Advocate (SR-16364[F] dated 19/04/2021)

JUDGMENT MADE IN
C.M.A(MD) No.1452 of 2010
17.04.2021

KM(04.06.2021) 3P 5C