



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD)No.1609 of 2010

P.Shanmuga Velayutham : Claimant/Appellant

Vs.

1.Ramachandran

2.National Insurance Company Ltd.,
Shanthi Theatre Complex,
Rajapalayam,
Thro' its Divisional Manager. : Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, to allow the appeal by setting aside the Award of the learned Motor Accident Claims Tribunal (Subordinate Judge), Srivilliputhur, dated 29.03.2010 in M.C.O.P.No.82/2007.

For Appellant : Mr.G.Sridharan
For R1 : No appearance
For R2 : Ms.P.Malini

JUDGMENT

The claimant is the appellant before this Court. It is the case of the claimant that on 06.10.2004 he drove the Omni Van bearing Registration No.TN-67-Y-2156 owned by the first respondent from Kovilpatti to Rajapalayam and at about 3.30 a.m., the vehicle was near Achankulam on Sivakasi-Srivilliputhur highways in a turning, he lost the control of the vehicle and rammed a tamarind tree. In the accident, he sustained grievous injuries. Immediately, he was taken to Srivilliputhur Government Hospital and after providing first aid, he was taken to Madurai Rajaji Government Hospital.

2. It is his further case that he was working as a driver under the first respondent and he was paid Rs.3,000/- per month. After the accident, he was not able to do his work and hence, he is entitled for compensation of Rs.3,00,000/-.



3. The claim petition was contested by the second respondent-Insurance Company contending that the claimant himself was responsible for the accident. That apart, he did not have valid and effective driving licence at the relevant point of time. A criminal case also proceeded against the claimant in C.C.No.141 of 2005. He pleaded guilty before the learned Judicial Magistrate No.II, Srivilliputhur and paid the fine of Rs.800/-. It is contended that suppressing all those relevant facts, a claim petition is filed with an ulterior motive. It is also stated that a policy was issued for the offending vehicle in the name of Dr.A.S.Ramesh and the sale of the vehicle to the first respondent was not intimated to the company and hence, no liability can be fixed on the Insurance Company.

4. Before the Tribunal, the claimant examined two witnesses and marked 13 documents. On the side of the Insurance Company, three witnesses were examined and Ex.R1 to Ex.R3 were marked.

5. The Tribunal, having come to the conclusion that the claimant himself was responsible for the accident, dismissed the claim petition. Challenging the same, the present appeal has been filed.

6. Heard Mr.G.Sridharan, learned counsel appearing for the appellant and Ms.Malini, learned counsel appearing for the second respondent and perused the materials available on record.

7. In the matter on hand, the appellant sought compensation of Rs.3,00,000/- for the injuries sustained by him in the accident that had taken place on 06.10.2004. It is his case that he was working as a driver under the first respondent and when he was driving the vehicle, the accident had taken place. In the claim petition, he has categorically admitted that only due to his negligence, the accident had occurred. That apart, before the Criminal Court also he pleaded guilty and paid the fine amount. These facts were taken note of to dismiss the claim petition.

8. In the light of the above facts, I find no reason to interfere with the findings of the Tribunal. In fine, the appeal fails and the same is dismissed. No costs.

Sd/-

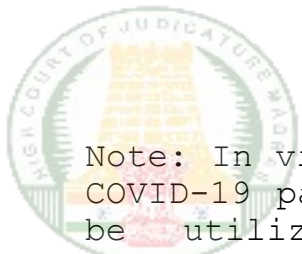
Assistant Registrar(T & P)

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/ /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 Motor Accident Claims Tribunal
(Subordinate Judge), Srivilliputhur.

2.V.R. Section,
Madurai Bench of Madras High Court,
Madurai(2 copies)

+1 CC to M/s.T.M.HARIHARAN, Advocate (SR-15716[F] dated 09/04/2021)

+1 CC to M/s.P.MALINI, Advocate (SR-15932[F] dated 16/04/2021)

C.M.A(MD)No.1609 of 2010
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ES (CO)

TR(19.05.2021) 3P 6C