



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 05.03.2021

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WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD)No.614 of 2011
and
M.P(MD)No.2 of 2011

Branch Manager,
The New India Assurance Co. Ltd.,
Nagapattinam.

.. Appellant/2nd Respondent

vs.

1.R.Vivek

..1st Respondent/Petitioner

2.G.Vasudevan

...2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the award dated 19.04.2010 and made in MCOP No.556 of 2006 on the file of the Motor Accident Claims Tribunal, Additional Sub-Court, Thanjavur.

For Appellant : Ms.P.Malini
For Respondents : Mr.M.Siddharthan (for R1)
No appearance for R2

J U D G M E N T

This appeal has been preferred by the Insurance Company questioning the award passed by the Motor Accident Claims Tribunal (Additional Sub-Court), Thanjavur in MCOP No.556 of 2006.

2.This is a case of injury. According to the claimant, on 06.10.2005 at 07.15 p.m he was riding a motorcycle bearing registration No.TN-49-L-9707 near YMCA Nanthanam signal in Chennai. At that time, a jeep bearing registration No.TN-01-C-4623, which was driven by its driver in a rash and negligent manner, rammed the motorcycle, in which, he sustained injuries. He was immediately taken to the Malar Hospital, Adyar, where he took treatment as inpatient till 08.10.2005 and thereafter, he took treatment as outpatient. He claimed compensation of Rs.2,00,000/-, but the Tribunal has awarded Rs.61,700/-. Challenging the same, the present appeal has been filed.

3.Ms.P.Malini, learned counsel for the appellant would contend that the Tribunal having come to the conclusion that the accident



occurred only due to the negligence of the driver of the jeep, erred in fastening the liability on the appellant.

4.Per contra, Mr.M.Siddharthan, learned counsel for the first respondent/claimant would argue that admittedly the policy has personal accident coverage. That apart, R.W.1 has admitted in his evidence that the insurance company collected Rs.50/- for personal coverage. So, a person, who was driving vehicle with valid driving licence, is entitled to claim personal coverage, hence, there is no illegality or irregularity in the finding of the Tribunal.

5.Heard the rival submissions of the learned counsel appearing on either side and perused the materials available on records.

6.In the instant case, perusal of the claim petition would show that it was filed under Section 163-A and 166 of the Motor Vehicles Act. Though the appellant was not added in the claim petition originally, but subsequently, the appellant was impleaded as second respondent. The owner of the Jeep remained exparte. The claimant produced his driving licence and marked as Ex.P.6. Ex.R.1 is the insurance policy. The Tribunal after considering the evidence of R.W.1 and Ex.R.1 has come to the conclusion that the vehicle was insured for the personal accident coverage and hence, the insurance company is liable to pay compensation. Even though the claim petition was filed under Section 163-A and 166 of the Motor Vehicles Act, the averments therein reveal it was filed under Section 163-A of Motor Vehicles Act. Further, the quantum is not seriously disputed by the appellant. Hence, I find no merit in the appeal, hence, the same is liable to be dismissed.

7.Accordingly, the Civil Miscellaneous Appeal is dismissed. Since the appeal is dismissed, the appellant/Insurance Company 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, the claimant is permitted to withdraw the award amount, less the amount already withdrawn, if any, together with proportionate interest and costs. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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To

The Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Thanjavur.

Copy to
The Record Keeper-2 copies
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.M.SIDDHARTHAN, Advocate (SR-9405[F] dated
08/03/2021)

JUDGMENT MADE IN
C.M.A (MD) No.614 of 2011
and
M.P (MD) No.2 of 2011
05.03.2021

KM(26.05.2021) 3P 5C