



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD) .No.1294 of 2014

WEB COPY
Arumugam

...Appellant/ Petitioner

Vs.

1.Saburan Beevi

2.The Branch Manager,
ICICI Lombard General Insurance
Company Limited,
No.5, United Arcade,
Annamali Nager,
Karur Bye-pass road,
Trichy - 18.

...Respondents/Respondents

[1st respondent is given up and he has been set ex-parte before Tribunal]

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to challenge the Order and Decree, dated 10.09.2014 in M.C.O.P.No.298 of 2009 on the file of the learned Motor Accident Claims Tribunal/Chief Judicial Magistrate, Pudukottai, fastening the liability on first respondent.

For Appellant :Mr.N.Balakrishnan

For R-1 :Exparte

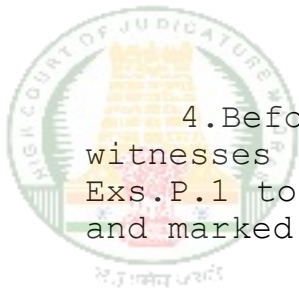
For R-2 :Mr.K.K.Ramakrishnan

ORDER

This Civil Miscellaneous Appeal has been filed against the Order and Decree, dated 10.09.2014 in M.C.O.P.No.298 of 2009 passed by the learned Motor Accident Claims Tribunal/Chief Judicial Magistrate, Pudukottai.

2. It is a case of accident. On 02.06.2009, night at 09.30 p.m., the injured was riding his cycle from north to south, a Mini van bearing Regn. No.TCK 4678 belongs to the 1st respondent herein came from opposite direction. The driver of the Mini van drove his vehicle with rash and negligent manner and dashed against the injured. Due to accident, the injured has sustained grievous and lacerated injures.

3.The claimant has filed a claim petition in M.C.O.P.No.298 of 2009 on the file of the learned Motor Accident Claims Tribunal/Chief Judicial Magistrate, Pudukottai, seeking compensation.



4. Before the Tribunal, on the side of the claimant two witnesses were examined as P.W.1 & 2 and marked ten documents as Exs.P.1 to P.10 and four witnesses were examined as R.W.1 to R.W.4 and marked Ex.R.1 to Ex.R.10. Ex.C.1 was marked.

5. The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the claimants and the respondent and also on appreciating the evidences on record, held that the accident occurred only, due to the rash and negligent manner of the driver of the Mini van and directed the 1st respondent herein to pay a sum of Rs.97,000/- as compensation.

6. Heard on either side. Perused the material documents available on record.

7. The claimant has preferred this appeal on the ground that only insurance company is liable to pay compensation, but the tribunal has fixed the liability on the owner of the vehicle on the sole ground that the cheque was issued by the owner of the vehicle towards policy amount bounced. So, the insurance company is not liable to pay compensation. The owner was set exparte before the tribunal and also in the present appeal.

8. The appellant/claimant has filed a petition in M.C.O.P.No.298 of 2009 on the file of the learned Motor Accident Claims Tribunal/Chief Judicial Magistrate, Pudukottai, for compensation in the injuries sustained by him in the road accident at 09.30 p.m., on 02.06.2009, when he was going by bi-cycle from north to south, a mini van belongs to the 1st respondent herein bearing Regn.No.TCK 4678 came rash and negligent manner and dashed against the appellant.

9. In the said accident, the claimant has sustained injuries on his head and right shoulder. He was admitted in Government Hospital and treated as inpatient. He claimed Rs.5 lakhs from the respondents herein.

10. It is stated in the counter affidavit filed by the 2nd respondent/insurance company that the 1st respondent has paid premium through cheque, but it was returned as insufficient funds and also cancelled the policy. At the time of accident, it was also intimated to the 1st respondent and also office of the Regional Transport Office. There was no valid policy for the vehicle of the 1st respondent at the time of accident. Since, the owner of the vehicle was set exparte and no evidence was produced to prove that there was a valid policy at the time of accident.

11. R.W.3 was examined on the side of the insurance company and proved that the 1st respondent was not having valid policy at the time of accident. So, the tribunal has rightly fixed the liability on the 1st respondent (owner of the vehicle) and directed to pay



the entire compensation amount fixed by the tribunal with 7.5% interest.

12.Since there was no valid policy at the time of accident, the tribunal has rightly fixed the liability on the owner of the vehicle. Therefore, there is no valid reason to interfere with the findings passed by the tribunal.

13.Finally, this Civil Miscellaneous Appeal stands dismissed by confirming that the Order and Decree, dated 10.09.2014 in M.C.O.P.No.298 of 2009 passed by the learned Motor Accident Claims Tribunal/Chief Judicial Magistrate, Pudukottai. The 1st respondent/owner of the vehicle is directed to deposit the entire award amount, within a period of six weeks from the date of receipt of a copy of the order. After depositing, the claimant is directed to withdraw the entire award amount with accrued interest. No Costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ksa

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

The chief Judicial Magistrate,
The Motor Accident Claims Tribunal, Pudukottai.

COPY TO:-

The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court, Madurai. (2 Copies)

+1 CC to M/s.K.K.RAMAKRISHNAN, Advocate (SR-39838[F]
dated 21/12/2021)

Order made in
C.M.A. (MD) .No.1294 of 2014
21.12.2021

SK (CO)
GC (28.01.2022) 3P 5C