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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2022

CORAM

THE HON'BLE MRS.JUSTICE J.NISHA BANU

Civil Miscellaneous Appeal No.2037 of 2012
and M.P.No.1 of 2012

United India Insurance Co.Ltd.
No.6, Nungambakkam High Road
Chennai-600 034

...Appellant
/2nd Respondent

Vs.

1.R.Subramaniam

..1st Respondent/Petitioner

2.R.Venkataraman

..2nd Respondent
/1st Respondent

(R-2 Set Exparte in Lower Court)

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 09.03.2011 made in MCOP.No.672 of 2007 on the file of the Motor Accident Claims Tribunal (IV Judge, Court of Small Causes) at Chennai.

For Appellant : Mrs.R.Sree Vidhya
For Respondent : No appearance
No.R1
For Respondent
No. R2 : Exparte

JUDGMENT

The present appeal has been filed by the Insurance Company challenging the award of the Motor Accident Claims Tribunal dated 09.03.2011.

2. Among other grounds raised in the appeal, it is mainly contended that the claim petition is not maintainable under law. The Tribunal has failed to note that the petitioner-claimant had played a fraud on the court by suppressing material particulars



3. The claim petition is filed by the injured claimant who claimed compensation of Rs.3,00,000/- for the injuries sustained by him in a road accident. It is averred in the claim petition that on 03.09.2004 at 11.30 hours, while he was travelling as a pillion rider in a motor cycle bearing Reg.No.TN-07-AA-0093 at Pantheon Road Bridge, Egmore, the rider of the vehicle drove the vehicle in a rash and negligent manner and hit on the car bearing Reg.No.TN-01-T-0103 proceeding from the opposite direction, resulting in the claimant sustaining grievous injuries.

5. Heard the learned counsel for the appellant and perused the materials available on record. There is no representation for the 1st respondent/claimant.

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7. A careful perusal of the claim petition and the award passed by the Tribunal would show that the accident is dated 03.09.2004, claim petition is filed in year 2007 and the award is passed on 09.03.2011. As rightly contended by the learned counsel for the appellant, when the finding of the Tribunal is that the offending vehicle is not a car and the registration number was falsely implicated, the claim petition ought to have been dismissed by the Tribunal. In such view of the matter, the claimant is not entitled to receive any compensation.

8. In the light of the above discussion, the claim petition deserves no consideration. The Claim Petition in MCOP.No.672 of 2007 is dismissed. This Civil Miscellaneous Appeal is allowed. The appellant/Insurance company is permitted to withdraw the amount deposited to the credit of MCOP.No.672 of 2007 along with accrued interest. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

nvsri
To

1. The Judge, Motor Accident Claims Tribunal
(IV Judge, Court of Small Causes) at Chennai.

+1 CC to Mr.R. Ravi Chandran, Advocate sr 16778.

C.M.A.No.2037 of 2012

NRJK (CO)
SP(19/04/2022)