



CMA.No.2254 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 02.03.2022

C O R A M :

The Hon'ble Mrs. Justice **J. NISHA BANU**

C.M.A.No.2254 of 2012

Rangasamy

..Appellant/Claimant

Vs

1.P.Thangadurai

2.Branch Manager

United India Insurance Co.Ltd

Vellore

..Respondents/Respondents

PRAYER : CMA filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.285 of 2010 dated 06.06.2012 on the file of MACT/Additional District Court (FTC), Tirupattur, Vellore District.

For Appellant : Mr.Pa.Sudesh Kumar

For Respondents : Mr.S.Arunkumar for R2.



CMA.No.2254 of 2012

JUDGMENT

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The appellant/claimant filed this civil miscellaneous appeal challenging the findings of the Tribunal on the aspect of liability fixed on the owner of the vehicle involved in the accident and exonerating the insurance company on mere surmises and conjectures.

2. The appellant herein viz., Rangasamy was minor at the time of accident and he filed MCOP.No.285 of 2010, subsequently, he attained majority on 22.07.2011.

3. According to the appellant/claimant, on 13.06.2007, at 8.00 am., when he was standing near the lands of Venkatesan and Periyathambi at Agraharam, the tractor bearing Reg.No.TN-45-U-4029 belonging to the 1st respondent driven by its driver dashed against the appellant. In the said accident, the appellant suffered serious injuries and claimed Rs.2,00,000/- as compensation from the respondents.

4. Both the owner and insurer of the tractor, resisted the claim.



CMA.No.2254 of 2012

The Tribunal, based on the petition averments, counter, evidence let in, given findings to the effect that 2nd respondent-insurance company is not liable to pay compensation to the injured as the Tractor involved in the accident is meant for agricultural purpose and the injured sat on the trailer behind the tractor who is an unauthorised person and no insurance premium is paid covering the person sitting on the trailer. In view of the violation of policy and permit conditions, 2nd respondent-insurance company is not liable to pay compensation.

5. As far as the first respondent-owner of the vehicle is concerned, he remained exparte. The driver of the tractor was not examined on the side of 2nd respondent-insurance company before the tribunal.

6. The Tribunal found that injured sustained 20% disability and granted Rs.20,000/- as compensation under the head disability, Rs.5000/- under the head “pain and suffering”, Rs.10,000/- under the head “medical expenses”, Rs.5000/- under the head “extra nourishment” Rs.5000/- under



CMA.No.2254 of 2012

the head “Transport and future medical expenses”. Altogether, Rs.45,000/- is awarded as compensation to the appellant.

7. The findings of the Tribunal is that on 13.06.2007, the appellant suffered injuries in the accident that occurred at the lands belonging to one Venkatesan and Periyathambi. Even though the tractor was insured with the 2nd respondent-insurance company, the driver of the tractor unauthorisedly taken the appellant in the tractor-trailer and drove the tractor in the negligent manner and caused the accident. The learned Judge, Tribunal, therefore, held that the 2nd respondent-insurance company is not liable to pay any compensation to the injured claimant, but it is only the 1st respondent-owner of the tractor to be held liable to pay the compensation.

8. In the instant case, the accident occurred on 13.06.2007 at the lands of Venkatesan and Periyathambi at Agraharam at which time, the appellant was sitting on the trailer attached to tractor bearing Reg.No.TN-45-U-4029 belonging to the 1st respondent. In the said accident, no other



CMA.No.2254 of 2012

motor vehicle was involved. The 1st respondent unauthorisedly allowed the appellant to sit on the trailer and it is against policy and permit conditions. Therefore, in the absence of statutory obligation, the insurer is not liable to pay the compensation. The tribunal, has categorically held that the insured/owner of the vehicle is only liable to pay the compensation. This court does not find any infirmity in the said findings of the Tribunal. In the result, the civil miscellaneous appeal fails and the same is accordingly dismissed. No costs.

02.03.2022

Index :Yes/No

Internet :Yes/No

nvsri

To

1. The Additional District Court (FTC), Tirupattur, Vellore District.
[Motor Accident Claims Tribunal]
2. The Section Officer, V.R. Section, High Court, Madras.



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CMA.No.2254 of 2012

J.NISHA BANU, J.

nvsri

C.M.A.No.2254 of 2012

02.03.2022