



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.4318 of 2019

Kumanarajan

... Appellant / Petitioner

vs.

1.Mrs.Rajeswari

2.The Divisional Manager,
Iffco Tokyo General Insurance Co.Ltd.,
100 feet Road, Puducherry.

... Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the dismissal of the claim petition vide Order and Decree dated 19.12.2018 passed by the learned Presiding Officer, Motor Accident Claims Tribunal (FAC) at Puducherry in M.A.C.T.O.P.No.1058 of 2016.

For Appellant : Mr.R.Ganesh Kumar

For Respondents : Mr.S.Arun Kumar[R2]
R1 Served - No Appearance

JUDGMENT

The Claimant has filed this appeal seeking to set aside the order dated 19.12.2018, passed by the learned Additional Sub-Judge, Motor Accident Claims Tribunal (FAC) at Puducherry in M.A.C.T.O.P.No.1058 of 2016.

2. The circumstances in which the above appeal has come to be filed are as follows:

The appellant herein had filed the above claim petition seeking compensation for the injuries sustained by him in a road accident on 16.05.2016, involving the 1st respondent's car and insured with the 2nd respondent / Insurance Company. The appellant would claim that he is a driver by profession and he is aged about 51 years, therefore, compensation of Rs.10,00,000/- was sought for the injuries sustained by him on his head and the knee. It is his case that he was working as a driver under the 1st respondent at Puducherry, on the said date,



he was on a trip from Puducherry to Madurai and while crossing on the Trichy - Chennai National Highway near Padalur Sandaipettai, the car which was driven by the appellant met with an accident with another car, a Maruthi Wagon R bearing Reg.No.TN-48-Q-7567 by crossing the center median. By reason of the impact, the appellant had sustained the injuries. Therefore, he has come forward with the above claim petition. In fact, in his claim statement, the petitioner held the responsibility for the accident on the respondents and contended that they are liable to pay compensation for the injuries sustained by this petitioner under Section 163-A of the Motor Vehicles Act, on the following grounds.

'The petitioner further submits that the Grievous Injuries due to R.T.A was caused by the vehicle belonging to the first respondent and it has been duly insured with the 2nd respondent herein. Therefore, the second respondent is also vicariously liable to pay compensation for the injuries sustained by this petitioner. Both the respondents are jointly and severally liable to pay compensation to the petitioner.'

3. The 1st respondent though had entered appearance in the above matter later remained absent and was set exparte. But, it was the 2nd respondent / Insurance Company, who had contested the claim. They had taken out a preliminary defence that the appellant was responsible for the accident. It was only against car driver, the SHO, Padalur Police Station, Perambalur District has filed a case. Since the appellant/claimant is the tort-feasor, he cannot claim any compensation. That apart, the appellant/petitioner had hit the centre median and thereafter, hit another car bearing Reg.No.TN-48-Q-7567 and had caused the death of one Kaushik and injuries to one Anuradha, therefore, the appellant was not entitled to any compensation.

4. The Tribunal below on considering the evidence on record, had proceeded to dismiss the petition stating that the appellant being a tort-feasor (as it evident from Exs.P1 and R2) is not entitled to any compensation. Challenging the said order, the appellant is before this Court.

5. Heard the learned counsels on either side.

6. The appellant has filed the claim petition seeking compensation for the injuries that he has sustained in the accident. Even according to the narration of the accident in the claim statement, it is clearly evident that it was the petitioner, who had driven the car in a rash and negligent manner as a result of which he had crossed over the centre median and hit the car coming from the opposite direction. This



is also the statement extracted in the First Information Report which has been filed as Ex.P1. The Police has also registered a case against the appellant. The complaint has been lodged by the passenger of the car which was hit by the appellant's car namely one Anuradha. The contention of the appellant that he had not driven the vehicle in a rash and negligent manner has to be rejected on a mere perusal of the First Information Report and the statement of the appellant himself. The appellant has also not challenged the filing of the complaint against him and in these circumstances, it has been clearly held that the appellant alone is responsible for the said accident and therefore, considering the fact that he is a tort-feasor and as per the judgment of the Hon'ble Supreme Court in the case of Ramkhiladi and another Vs. The United India Insurance Company and another reported in 2020 (2) SCC 550, the Tribunal has rightly dismissed the claim of the petitioner. Therefore, I do not see any reason to set aside the Order passed by the learned Additional Sub-Judge, Motor Accident Claims Tribunal (FAC) at Puducherry in M.A.C.T.O.P.No.1058 of 2016.

7. In the result, this Civil Miscellaneous Appeal is dismissed and the Order and Decree dated 19.12.2018 passed by the learned Additional Sub-Judge, Presiding Officer, Motor Accident Claims Tribunal (FAC) at Puducherry in M.A.C.T.O.P.No.1058 of 2016 is confirmed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ssn

To

1. The Additional Sub-Judge,
Presiding Officer,
Motor Accident Claims Tribunal (FAC),
Puducherry.

2. The Section Officer,
V.R.Section, High Court of Madras,
Chennai.

+1cc to Mr.S.Arun Kumar, Advocate, S.R.No.23887

C.M.A.No.4318 of 2019

JP-II[co]

NSK 06/05/2022