BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 16.06.2022

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THE HONOURABLE MRS.JUSTICE **R.THARANI**

C.M.A(MD)No.406 of 2012

The New India Assurance Company Limited
represented by its Branch Manager,
Kodavasal Taluk,
Thiruvaroor District. ... Appellant

Vs

1.Veerachamy
2.V.Narayanan

3.The Regional Manager,
New India Assurance Company Ltd.,
Spencers Towers, Anna Salai,
Chennai. ... Respondents

PRAYER :-

This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act, 1988, to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, Additional Sub Court, Dindigul in M.C.O.P.No.200 of 2006 dated 23.09.2011.

For Appellant : Mr.D.Sivaraman

JUDGMENT

This appeal is filed against the order in M.C.No.200 of 2006 on the file of the Additional Subordinate Judge, Dindigul. The appellant is the second respondent in the claim petition. The first respondent is the claimant. Respondents 2 and 3 are the first and third respondents in the claim petition.

2.Brief substance of the claim petition is as follows:

On 11.12.1995 at about 8 pm, while the petitioner was riding his bicycle along the left side of the Vedasandur to Melmathinipatti Road, one Mahindra Alwin Nissan vehicle bearing registration No.TN 51Y 0203 was driven by its driver, in a rash and negligent manner, came from the opposite direction, dashed against the first respondent herein and caused him injuries. The first respondent took treatment in Dindigul and Madurai Government Hospitals and then in private hospitals. The first respondent herein, sustained permanent disability and he claimed a sum of Rs.3,00,000/- as compensation.

3.Brief substance of the counter filed before the Tribunal, by the second respondent adopted by the third respondent is as follows:

The mode of accident is denied. It was the claimant who crossed the road without giving any signal. The claimant has to prove that the vehicle was insured with the second respondent and that the driver of the vehicle was having valid driving license. The amount claimed is excessive.

4.Before the Tribunal, two witnesses were examined and four documents were marked on the side of the claimant. Two witnesses were examined and no documents was marked on the side of the respondents 2 and 3. The Tribunal has awarded a sum of Rs.42,000/- to be paid jointly or separately, by all the respondents, in the claim petition.

5.Against the award, the appellant herein has filed this appeal on the following grounds:

The Tribunal failed to consider that the occurrence took place due to the negligence of the claimant who crossed the road suddenly and he voluntarily contributed to the accident. The vehicle was not insured with the appellant. The burden of proving the facts is on the claimant.

6.On the side of the appellant, it is stated that the vehicle was not insured with the appellant and that the accident took place only due to the sudden crossing of the claimant. It was the claimant, who negligently crossed the road suddenly and invited the accident. On the side of the appellant, it is further stated that the First Information Report was registered against the driver of the vehicle and later it was closed as mistake of fact.

7.The appellant failed to produce any document to prove that the First Information Report was closed as mistake of fact. In the above circumstances, the Tribunal has rightly come to the conclusion that the driver of the vehicle is responsible for the accident. The appellant herein / second respondent failed to produce any document to prove that there was no policy for the offending vehicle. The Policy Register pertaining to the period was not marked. The Tribunal has observed that a copy of the policy was available in the case bundle and the Tribunal has also mentioned the policy number in the order. Even then, the appellant has failed to produce the copy of the policy.

8.In view of the same, it is decided that the vehicle was insured with the appellant and that the insurance policy was valid at the time of accident. In view of the above discussion, it is decided that there is nothing sufficient enough to interfere with the order of the Tribunal.

9. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs.

(ii) The order passed in M.C.O.P.No.200 of 2006 dated 23.09.2011, passed by the Motor Accident Claims Tribunal, Additional Sub Court, Dindigul, is upheld.

(iii) The present appellant - The New India Assurance Company Limited, is directed to deposit the entire compensation awarded by the Tribunal i.e., Rs.42,000/- (if not already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No. 1090 of 2005, on the file Motor Accident Claims Tribunal, Additional Sub Court, Dindigul, within a period of eight weeks from the date of receipt of a copy of this order.

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(iv) On such deposit being made by the present appellant, the first respondent/claimant is at liberty to withdraw the same, after following due process of law. No costs.

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Index: Yes / No
Internet : Yes / No

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To

1.Motor Accident Claims Tribunal, Additional Sub Court, Dindigul.

2.The Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court, Madurai.

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