



C.M.A.No.1261 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1261 of 2007

And

M.P.No.2 of 2007

New India Assurance Co. Ltd.,
Cuddalore.

... Appellant

Vs.

1.Danapal
2.S.Vasantha

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 28.04.2006 passed in M.C.O.P.No.883 of 2001 by the Motor Accidents Claims Tribunal – cum – Principal Subordinate Judge, Cuddalore.

For Appellant : Mr.S.Dakshinamoorthy
For Respondents : R1 – NRN
R2 – Died

J U D G M E N T

The second respondent Insurance Company before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has



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been filed against the award and decree dated 28.04.2006 passed in M.C.O.P.No.883 of 2001 by the Motor Accidents Claims Tribunal – cum – Principal Subordinate Judge, Cuddalore.

2.The brief facts of the case is that on 30.01.2000 at about 8.30p.m. when the first respondent was coming on the Pondy – Cuddalore Main Road in Sinnakanganakuppam from North towards South in a bicycle, a Hero Honda bearing Registration No.TN-31-B-7429 owned by one Samuel was driven by one Babu in a rash and negligent manner and dashed against the first respondent, due to which, the first respondent sustained injuries.

3.Thereafter, the injured first respondent filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.2 Lakhs. During the pendency of the claim petition the said Samuel died and his legal heir/ second respondent was impleaded as the third respondent therein.

4.After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.1,16,300/- as compensation to the claimant and



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directed the appellant Insurance Corporation to pay the compensation with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit and costs. Aggrieved by the same, the appellant Insurance Company has filed this appeal.

5.The learned counsel appearing for the appellant submitted that in the initial complaint lodged before the law enforcing agency, the Registration Number of the Hero Honda vehicle owned by the second respondent's husband was mentioned as PY 01 L 1225 and subsequently, the same was modified in the claim petition and claim was made as against the owner of the vehicle, for which, the appellant made complaint before the CBCID, however, investigation is not known.

6.Heard the learned counsel appearing for the appellant and perused the materials available on record. Till date, the appellant has not taken any effective steps to serve notice on the respondents and it appears that the second respondent has passed away.

7.The manner in which the accident happened is not disputed.



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Admittedly, in the F.I.R., the Registration Number of the Hero Honda vehicle owned by the second respondent's husband was mentioned as PY 01 L 1225 and subsequently, the law enforcing agency conducted investigation and the Registration Number of the Hero Honda vehicle was modified as TN-31-B-7429 in the charge sheet. Though the appellant claim that the appellant made complaint before CBCID, however, investigation is not known. Further, the appellant has not adduced any evidence with regard to the registration number before the Tribunal and has also not challenged the charge sheet filed by the the law enforcing agency. Without challenging the charge sheet filed by the the law enforcing agency in the manner known to law, the appellant has filed this appeal, which is not sustainable. Hence, the impugned award and decree warrants no interference.

8.The civil miscellaneous appeal stands dismissed. The award and decree dated 28.04.2006 passed in M.C.O.P.No.883 of 2001 by the Motor Accidents Claims Tribunal – cum – Principal Subordinate Judge, Cuddalore, is confirmed.

9.The appellant/ Insurance Company is directed to deposit the entire award amount before the Tribunal within a period of four weeks



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from the date of receipt of a copy of this order, less the amount if any, already deposited. On such deposit being made, the first respondent/ claimant is permitted to withdraw the award amount, along with accrued interest and costs, less the amount already withdrawn if any, on making proper and necessary application before the Tribunal.

10.The civil miscellaneous appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

20.10.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The Motor Accidents Claims Tribunal – cum –
Principal Subordinate Judge, Cuddalore.



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