



C.M.A.No.1331 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2023

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THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.1331 of 2019

Marimuthu

.. Appellant

Vs.

1.Karthik
2.Royal Sundaram Alliance Insurance Co. Ltd
1500, E.V. Najappa Road, Erode.
3.Arumugam
4.United India Insurance Co. Ltd.,
No.1-15, 24-H, First Floor
New Edapadi Road, Sankari
Salem.

..Respondents

Prayer: The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 04.10.2018 made in MCOP No.63 of 2013 on the file of the Motor Accident Claims Tribunal/Subordinate Judge, Thiruchengode.



C.M.A.No.1331 of 2019

For Appellant : Mr.C.Paraneedharan

For Respondents : Mr.Elveera Pandian for R2
M/s.I.Malar for R4
No Appearance for R1 & R3

J U D G M E N T

The Award dated 04.10.2018 passed in MCOP No.63 of 2013 on the file of the Motor Accident Claims Tribunal/ Subordinate Judge, Thiruchengode, is under challenge in the present Civil Miscellaneous Appeal.

2. As could be seen from the Claim Petition, the accident had occurred on 06.11.2012 at 7.20 a.m, at Thiruchengode to Rasipuram Main Road, Viyappamalai Primary Health Centre, Malaisuthi Road. The Elachipalayam Police Station registered a case in Crime No.293 of 2012 in connection with the accident. As per the first information report, the



C.M.A.No.1331 of 2019

claimant Marimuthu was proceeding in his two wheeler viz., Hero Honda Splender bearing Registration No.TN-28-AA-7166. Due to the accident, he sustained grievous injuries. Hence, he filed the claim petition.

3. The Tribunal considering the pleadings, oral and documentary evidence, especially Exs.P1 MVI report and R1- Fine receipt dismissed the claim petition holding that the accident has occurred only due the rash and negligent driving of the appellant/claimant and driver of the first respondent is not responsible for the accident.

4. Challenging the order of dismissal dated 04.10.2018 made in M.C.O.P.No.63 of 2013, the appellant has come out with the present appeal.

5. The learned counsel appearing for the appellant contended that the accident had occurred only due to the rash and negligent act of the driver of the Maruti car belonging to the first respondent. But the Tribunal without considering Ex.P2/wound certificate and Ex.P3 discharge summary,

3/7



C.M.A.No.1331 of 2019

has erroneously dismissed the claim petition and hence, he prays to allow this appeal.

6. The learned counsel for the second and fourth respondents/Insurance Company contended that they are not liable to compensate the claim of the appellant/claimant on the ground that only due to the rash and negligent driving by the claimant, who is the driver of the Hero Honda Splendor, the accident had happened. The 3rd respondent, who is the owner of the vehicle had violated the policy conditions by permitting the appellant/claimant to drive the vehicle without possessing any valid driving license. It is also their case that the FIR was registered only against the claimant and a criminal case has been filed, and he had paid fine amount and therefore, they are not liable to compensate the claim of the appellant.

7. Heard the learned counsel appearing for the appellant as well as second and fourth respondent-Insurance Company and perused the entire materials on record.



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8. A perusal of Ex.P1 Motor Vehicle Inspector report would reveal that appellant/claimant herein is the driver of the vehicle namely Hero Honda Splender and the owner is the 3rd respondent herein and the claimant did not possess driving license. Admittedly, the FIR which was registered against the appellant/claimant was never marked as exhibit before the Tribunal. But the claimant did not whisper about the same before the Tribunal. The said FIR was registered based on a complaint lodged by the driver of the Maruti Car owned by the first respondent and the said complaint was taken cognizance by the police. As seen from Ex.R3 computerised copy of fine receipt, it would reveal that the appellant/claimant had admitted his guilt and paid fine amount. A consistent stand has also been taken by the respondents before the Tribunal that only due to the rash and negligent driving of the driver of the appellant/claimant, the accident had happened. The MVI report of the Hero Honda Splender would also reveal that the accident had not occurred due to mechanical defect. The Tribunal under the impugned award has taken into consideration all these factors and has rightly rejected the contention of the appellant/claimant.



C.M.A.No.1331 of 2019

There is no perversity in the reasoning and finding of the Tribunal warranting interference by this Court.

9. In the result, this Civil Miscellaneous Appeal is dismissed confirming the order dated 04.10.2018 made in M.C.O.P.No.63 of 2013 on the file of the Subordinate Judge, Thiruchengode. No costs.

06.03.2023

Index : Yes/No
Speaking Order/Non-Speaking Order
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To

- 1.The Motor Accident Claims Tribunal,
Subordinate Judge, Thiruchengode
- 2.The Section Officer,
V.R Section,
High Court, Madras.

6/7



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C.M.A.No.1331 of 2019

A.A.NAKKIRAN, J.

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C.M.A.No.1331 of 2019

06.03.2023