



C.M.A.No.2167 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2167 of 2018

And

C.M.P.No.16922 of 2018

D.Vijayakumar

... Appellant

Vs.

1.M.Siddhaiyan

2.M.Veeramani

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award of the Motor Accidents Claims Tribunal (Special District Judge at Erode) made in M.C.O.P.No.369 of 2015 dated 06.10.2017 so far as it pertains to the appellant.

For Appellant : Mr.M.Palani

For Respondents : R1 – Died

R2 – NRN

J U D G M E N T

The second respondent before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has been filed against



C.M.A.No.2167 of 2018

the judgment and decree dated 06.10.2017 passed by the Motor Accidents Claims Tribunal (Special District Judge at Erode), in M.C.O.P.No.369 of 2015.

2.The learned counsel appearing for the appellant submitted that the first respondent claimant filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.5 Lakhs for the injuries sustained by him in the road accident that happened on 25.12.2011 and after adjudication, the Tribunal awarded a sum of Rs.5,13,000/- as compensation to the claimant along with interest at 7.5% p.a. from the date of petition till the date of deposit and proportionate cost and directed the second respondent and appellant to deposit the amount equally.

3.The learned counsel appearing for the appellant further submitted that on 25.12.2011 at about 5.30 p.m., the claimant travelled as pillion rider in the TVS 50 bike bearing Registration No.TN 36 C 3365 driven by his friend Sadhaiyan on the Kurichi to Poonachi Main Road near Jothi Panthal Nilayam. At that time, the second respondent came from the opposite direction in the Star City bike bearing Registration No.TN 33 AM 9667 in a rash and negligent



C.M.A.No.2167 of 2018

manner and dashed against the vehicle in which the claimant travelled.

4.The learned counsel appearing for the appellant further submitted that initially the vehicle was owned by the appellant and subsequently, it was alienated in favour of the second respondent, however, the second respondent did not take effective steps to mutate the records, however, the Tribunal fastened 50% liability on the part of the appellant which is not sustainable one.

5.The learned counsel appearing for the appellant further submitted that the appellant took private notice to the first respondent, however, the same returned as the first respondent died and further submitted that the appellant is not able to trace the legal heirs of the first respondent.

6.The submission made by the learned counsel appearing for the appellant reveals that the appellant is not interested in impleading the legal heirs of the first respondent. Till date, the appellant has not taken any effective steps to serve notice on the second respondent. Hence, this appeal is dismissed for non



C.M.A.No.2167 of 2018

prosecution.

WEB COPY

M.DHANDAPANI,J.

7.The civil miscellaneous appeal is dismissed for non prosecution. The judgment and decree dated 06.10.2017 passed by the Motor Accidents Claims Tribunal (Special District Judge at Erode), in M.C.O.P.No.369 of 2015, is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

11.12.2023

pri

Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal
(Special District Judge at Erode).

**C.M.A.No.2167 of 2018
And
C.M.P.No.16922 of 2018**

11.12.2023