



C.M.A.No.27 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

**C.M.A.No.27 of 2014**

Velayudam

... Appellant

vs.

1. V.Rajendran

2. The United India Assurance Company Ltd.

No.134, Greams Road

Chennai – 600 006

... Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, praying to set aside the order of dismissal made in O.P.No.1148 of 2008 dated 14.09.2013 by the Motor Accident Claims Tribunal III Small Causes Court, Chennai.

For Appellant : Mr.S.Udhayakumar

For Respondents : R1 – Dismissed vide Court order

dated 13.02.2023

Mr.A.Dhiraviyanathan for R2



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## **JUDGMENT**

Against the order of dismissal passed in M.C.O.P.No.1148 of 2008 on 14.09.2013 by the Motor Accident Claims Tribunal III Small Causes Court, Chennai, this Civil Miscellaneous Appeal has been preferred by the claimant herein.

2. The claim petition was filed under Section 166 of the Motor Vehicles Act and Rule 3 of MACT Rules claiming compensation of Rs.1,50,000/- for the injuries stated to have been sustained by the appellant/claimant herein in the road accident that was said to have taken place on 18.11.2007. The Tribunal, after hearing both sides and upon considering the oral and documentary evidences, has dismissed the claim petition holding that there is no such accident occurred as claimed by the appellant/claimant herein.

3. The learned counsel for the appellant would strenuously contend that the date of accident is on 18.11.2007 and at about 18.00 hours, when the appellant was closing the lorry shutter bearing Reg. No.TN-09-D8272 in



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Chennai Harbour near West Q Road Railway Line, the driver of the above said lorry, while taking reverse, hit against the appellant and ran over on his right foot and has stated that the accident took place only due to rash and negligent driving of the driver of the said lorry.

4. On behalf of the 2<sup>nd</sup> respondent / Insurance company, counter was filed to the effect that the lorry bearing Regn. No.TN-09-D8272 was not involved in the accident. There was a delay of 111 days in lodging the complaint and the delay was not properly explained in the complaint which, creates suspicion in the alleged accident and prayed for dismissal of the appeal.

5. Heard the rival submissions put forth by both sides' learned counsels. Perused the materials available on record.

6. It is the evidence of P.W.1 that on 18.11.2007 at about 18.00 hrs. while he was closing the lorry shutter (bearing Regn. No.TN-09-D8272 in Chennai Harbour near West Q Road Railway Line), the driver of the said lorry, while he was taking reverse, hit the appellant and ran over on his right foot. It is pertinent to note that the Discharge Summary-Ex.P.2 reveals



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that one Velayudam had sustained injuries due to road accident and he was admitted on 18.11.2007. The accident Register is not filed. The F.I.R. was stated to have been registered after 111 days from the date of alleged accident. When the complaint is lodged with an inordinate delay, then the delay is bound to be explained in the complaint, whereas it appears that the reason for the delay is not at all explained.

7. In the Discharge Summary-Ex.P.2, his age is mentioned as 45/2007. In the claim petition, the age of the appellant is mentioned as 45 years. It appears that in Ex.P.2-Discharge Summary, the patient name is mentioned as Mano, Age 40, Male. Thereafter, it appears to have been corrected as Velayudham. Further, the I.P. Number also appears to have been corrected. When corrections are effected in very vital documents, to show bonafides, the related documents should have been filed namely, Accident Register, Wound Certificate etc., whereas, the same have not been produced. Further, what was the reason for delay in lodging the complaint is not at all explained by the appellant/claimant herein. The inordinate delay in lodging the complaint has posed a very strong suspicion as to the details of the accident. When that be so, the appellant/claimant should have taken effective steps to prove that the accident had happened



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as narrated by him. No Motor Vehicle Inspector's report was filed. The non filing of charge sheet indicates the fact that the case was not at all further investigated. The evidence of P.W.1 and P.W.2 bristles with contradictions in many aspects. Therefore, as discussed above, the appellant/claimant has certainly failed to make out a case that on the given date, he met with a road accident connecting the said vehicle. Therefore the Tribunal has rightly dismissed the claim petition after thorough discussion which needs no interference. Therefore, the appeal is liable to be dismissed.

8. Accordingly, the Civil Miscellaneous Appeal stands dismissed. No costs.

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Index : Yes/No  
Speaking / Non-speaking order  
ksa-2

To:

1. The Motor Accident Claims Tribunal  
III Small Causes Court, Chennai,
2. The Section Officer,

5/7



V.R.Section,  
High Court of Madras,  
Chennai.

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**R.KALAIMATHI, J.,**

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