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C.M.A.No.295 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2023

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THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.295 of 2014

1.A.Sundaram
2.S.Arulmurugan
3.S.Anand

.. Appellants

Vs.

1.B.Shajahan
2.The Branch Manager
United India Insurance Co. Ltd.,
146-N, West Car Street
Tiruchengode
Namakkal District.

....Respondents

Prayer: The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the Award and decree dated 23.04.2013 made in MCOP No.370 of 2008 on the file of the Motor Accident Claims Tribunal/, Thiruchengode.

For Appellants	: Mr.T.S.Arthanareeswaran
For Respondents	: Mr.S.Arunkumar for R2 No Appearance for R1



C.M.A.No.295 of 2014

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The Award and decree dated 23.04.2013 passed in MCOP No.370 of 2008 on the file of the Motor Accident Claims Tribunal, Thiruchengode, is under challenge in the present Civil Miscellaneous Appeal.

2. As could be seen from the Claim Petition, the accident had occurred on 27.05.1998 at 12.30 a.m, at Thiruchengode Velur Main Road, near Mankaradu. The Tiruchengode Rural Police Station registered a case in Crime No.510 of 1998 in connection with the accident. As per the first information report, while the deceased Manjula was returning from her relative's house after attending a function by walk, the accident had occurred. Due to the accident, she sustained fatal injuries and died in the hospital. Hence, he filed the claim petition.

3. The Tribunal considering the pleadings, oral and documentary evidence, especially Ex.P1-FIR, Ex.P3 MVI report and Ex.P6 charge sheet dismissed the claim petition holding that the accident has not occurred as alleged by the appellant and driver of the first respondent is not responsible



for the accident.

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4. Challenging the order of dismissal dated 23.04.2013 made in M.C.O.P.No.370 of 2008, 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 TVS 50 Motor Cycle belonging to the first respondent. But the Tribunal without considering the evidence of PW1 and PW2 and the documents Ex.P1 to Ex.P7, has erroneously dismissed the claim petition and hence, he prays to allow this appeal.

6. The learned counsel for the second respondent/Insurance Company contended that they are not liable to compensate the claim of the appellant/claimant on the ground that the vehicle viz., TVS 50 motor cycle bearing Registration No.TN-28-T-4850 has not been involved in the accident and in Ex.P2-FIR, there is no mention about the vehicle involved in the accident and the person who drove the vehicle. It is also their case that the



said vehicle has falsely implicated in the accident in collusion between the claimants and the first respondent with a view to get false claim 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 respondent-Insurance Company and perused the entire materials on record.

8. It is the case of the appellants/claimants that the accident had occurred only due to the rash and negligent driving of the driver of the 1st respondent vehicle. But, PW2 who cited as an eye witness for the accident, in his cross examination stated that the 1st claimant only requested him to say that he has seen the accident and also admitted that the police has not examined him and he has not given any police complaint regarding the accident. Further, he admitted that till date he did not know the registration number of the vehicle involved in the accident. PW1, who is the husband of the deceased Manjula also in his cross examination admitted that no one has seen the accident and there is no eye witness for the accident. As seen from



C.M.A.No.295 of 2014

Ex.P1-FIR, there were two time mentioned as the occurrence time of accident and hence, the date and time mentioned in the FIR itself is very suspicious. The name and address of the driver of the vehicle namely TVS 50 motor cycle entirely differs from the motor vehicle inspector report (Ex.P3) and the charge sheet (Ex.P6) which also create strong suspicious over the involvement of the said vehicle in the accident. From the materials available on record, it is seen that the appellants/claimants failed to substantiate their contention. Therefore, the Tribunal under the impugned award has taken into consideration all these factors and has rightly rejected the contention of the appellants/claimants. 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 23.04.2013 made in M.C.O.P.No.370 of 2008 on the file of the Motor Accident Claims Tribunal, Tiruchengode. No costs.

12.04.2023

Index : Yes/No
Speaking Order/Non-Speaking Order
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C.M.A.No.295 of 2014

To

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



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C.M.A.No.295 of 2014

A.A.NAKKIRAN, J.

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C.M.A.No.295 of 2014

12.04.2023