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C.M.A.No.1941 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1941 of 2020

K.Saravanan

... Appellant

Vs.

1.M.Murugan

2.Chola Mandalam MS General
Insurance Company Ltd.,
'Dare House', 2nd Floor,
No.2, N.S.C. Bose Road,
Chennai – 600 001.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 04.02.2019 in M.C.O.P.No.255 of 2018 on the file of Special Sub-Court, No.1, Villupuram (Motor Accidents Claims Tribunal) and award compensation for the accident to the appellant on 26.01.2015.

For Appellant : Mr.K.Shakespeare

For Respondents : R1 – No Appearance
Mrs.R.Sree Vidhya for R2



C.M.A.No.1941 of 2020

WEB COPY

J U D G M E N T

This appeal has been filed seeking to set aside the judgment and decree dated 04.02.2019 passed by the Special Sub-Court, No.1, Villupuram (Motor Accidents Claims Tribunal), in M.C.O.P. No.255 of 2018.

2.The brief facts of the case is that on 26.01.2015 at about 3.30p.m., the appellant was riding his TVS-XL-Super HD Motor Cycle bearing Registration No.TN-32/C.3588 from East to West direction at Vengur Village Main Road near Vodafore Tower. At that time the Ashok Leyland Lorry bearing Registration No.TN-15/0488 belonging to the first respondent came from the opposite direction in a rash and negligent manner and dashed against the motorcycle, due to which, the appellant sustained injuries.

3.Thereafter, the injured claimant/ appellant filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.7 Lakhs. After adjudication, the Motor Accidents Claims Tribunal rejected the claim petition. Aggrieved by the same, the appellant claimant has filed this appeal.



C.M.A.No.1941 of 2020

4.The learned counsel appearing for the appellant submitted that that the claim petition filed by the appellant was rejected on the ground that the appellant was riding the motor cycle under the influence of alcohol and that the motor vehicle report did not reveal anything with regard to the damage of the lorry belonging to the first respondent. The learned counsel further submitted that immediately after the accident, the appellant was admitted in Government Hospital, Thirukoilur and thereafter referred to private Hospital for higher treatment, however, the Tribunal rejected the claim petition believing the evidence let it on the side of the respondents, which is not sustainable one.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the accident happened on 26.01.2015 at about 3.30 p.m., however, the complaint was made before the law enforcing agency after two days. The appellant in the F.I.R. has specifically stated the offending vehicle as TATA Ace and thereafter it has been modified to Ashok Leyland Lorry. Further, the relevant clause in the motor vehicle report of the lorry belonging to the first respondent reveal 'no damage caused'. Further, the appellant



C.M.A.No.1941 of 2020

WEB COPY

himself admitted in the cross examination that he used to consume alcohol due to body pain. The Tribunal considered all the factual aspects and rejected the claim petition, which warrants no interference.

6.Heard the learned counsel appearing for the appellant claimant and the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.

7.Admittedly, the accident happened on 26.01.2015 at about 3.30 p.m., however, the complaint was made before the law enforcing agency only after two days. The appellant in the F.I.R. has specifically stated the offending vehicle as TATA Ace and thereafter it has been modified to Ashok Leyland Lorry. Further, the relevant clause in the motor vehicle report of the lorry belonging to the first respondent reveal 'no damage caused'. Further, the appellant himself has admitted in the cross examination that he used to consume alcohol due to body pain. Hence, the Tribunal after considering all the factual aspects, rightly rejected the claim petition, which warrants



C.M.A.No.1941 of 2020

no interference.

WEB COPY

8.The civil miscellaneous appeal is dismissed. The judgment and decree passed in M.C.O.P.No.255 of 2018 dated 04.02.2019 by the Sub-Court, No.1, Villupuram (Motor Accidents Claims Tribunal), is confirmed. No costs.

14.12.2023

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Special Sub-Court, No.1, Villupuram
(Motor Accidents Claims Tribunal).



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C.M.A.No.1941 of 2020

M.DHANDAPANI,J.
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C.M.A.No.1941 of 2020

14.12.2023