



C.M.A.No.1919 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1919 of 2019

Saravana Kumar

... Appellant

Vs.

1.N.Subbu

2.The Branch Manager,
The Oriental Insurance Company Ltd.,
Branch Office,
No.3, 1st Floor, Kheny Building,
1st Cross, Gandhi Nagar,
Bangalore.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 22.09.2010 made in M.C.O.P.No.579 of 2008 on the file of the Motor Vehicles Claims Tribunal/ Additional Special Judge, Krishnagiri.

For Appellant : Mr.R.Mukund
For Respondents : R1 – No Appearance
Mr.S.Jeyaram for R2

J U D G M E N T

The petitioner before the Motor Vehicles Claims Tribunal is the appellant herein. This appeal has been filed against the award and



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decree dated 22.09.2010 passed by the Motor Vehicles Claims Tribunal/ Additional Special Judge, Krishnagiri, in M.C.O.P.No.579 of 2008.

2.The learned counsel appearing for the appellant submitted that on 05.03.2000, at about 09.30 hours, the appellant's friend namely, Anbu Saravana Raja was proceeding in a motorcycle bearing Registration No.T.C.D.3114 along with the appellant and one Sekar as pillion riders from Milk Dairy to Krishnagiri in Chennai Bye pass Road to Bangalore Bye pass Junction in a cautious manner. At that time, a Matador Van bearing Registration No.K.A.01 A 1672 belonging to the first respondent and insured with the second respondent came in a rash and negligent manner and dashed against the motorcycle, due to which, the appellant sustained injuries.

3.The learned counsel appearing for the appellant further submitted that though the appellant filed claim petition before the Tribunal for the injuries sustained by him, at the time of adducing evidence, he restricted his claim to a sum of Rs.35,000/- as compensation towards damages of the motorcycle. Though the appellant marked original bills for the repairs as Ex.P.2, the Tribunal



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without considering the same, mechanically rejected the claim petition, which is not sustainable one.

4.Per contra, the learned counsel appearing for the second respondent Insurance Company submitted that the appellant filed claim petition before the Tribunal for the injuries sustained by him, however, at the time of adducing evidence, he restricted his claim claiming compensation for the vehicle damages. Inorder to prove the same, the appellant did not mark the Motor Vehicle Report and marked only Ex.P.2 bills. Without marking the Motor Vehicle Report, the bills alone cannot be considered. Further already the appellant received a sum of Rs.6,500/- towards settlement of compensation from the Insurance Company. Hence, the impugned award warrants no interference.

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

6.Admittedly, the appellant filed claim petition before the



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Tribunal for the injuries sustained by him, however, at the time of adducing evidence, he restricted his claim claiming compensation for the vehicle damages. It is equally un-disputed fact that already the appellant received a sum of Rs.6,500/- towards settlement of compensation from the Insurance Company and the same is evident from Ex.P.6 – Salvage loss settlement and Ex.P.7 – Claim Settlement Register and the appellant had given consent letter dated 27.03.2000 to the Manager of the National Insurance Company agency to receive Rs.6,500/- towards salvage loss basis. Second claim is impermissible. Further, Motor Vehicle Report was also not marked. Hence, the Tribunal rightly dismissed the claim petition, which warrants no interference.

7.The civil miscellaneous appeal is dismissed. The award and decree dated 22.09.2010 made in M.C.O.P.No.579 of 2008 on the file of the Motor Vehicles Claims Tribunal/ Additional Special Judge, Krishnagiri, is confirmed. No costs.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

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1.The Motor Vehicles Claims Tribunal,
Additional Special Judge, Krishnagiri.

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M.DHANDAPANI,J.
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