



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1772 of 2019

A.Udhayakumar

.. Appellant

Vs.

1. K.Muniyan

2. The Divisional Manager,
United India Insurance Co. Ltd.,
No.16, First Floor, J.N. Street,
Puducherry-4.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 07.10.2010 made in MACT. OP.No.1183 of 2007 on the file of the III Additional District Judge, Motor Accidents Claims Tribunal, Puducherry.

For Appellant : Mr.Varadha Kamaraj
For M/s.T.S.Vijaya Raghavan

For Respondents : Mr. C.Paranthaman R2
R1 No appearance

J U D G M E N T

This appellant/claimant has come forward with this appeal against the judgment and decree dated 07.10.2010 made in MACT. OP.No.1183 of



2007 on the file of the III Additional District Judge, Motor Accidents Claims Tribunal, Puducherry.

2. Brief facts which are necessary for disposal of this appeal are as follows:-

On 04.07.2007 at about 6.00 pm. The appellant was travelling in his two wheeler bearing registration No.PY 01 X 3939 in Anna Salai, Puducherry, at that time, a rider of another motor cycle driven by the first respondent which was insured with the second respondent bearing Reg. No.PY 01 U 2013, in a rash and negligent manner, dashed against the petitioner and due to the said accident, the appellant sustained grievous injuries. Thereby, the appellant/claimant has filed a claim Petition before the Motor Accidents Claims Tribunal under Section 166 of the Motor Vehicle Act, claiming compensation of Rs.4,50,000/-.

3. Before the Tribunal, during trial, in order to prove the case, on the side of the appellant, five witnesses were examined viz., PW1 to PW5 and marked 12 documents viz., Exs.P1 to P12, On the side of the respondent/Insurance company, no witness was examined and documents



was marked. The Tribunal, considering the pleadings, oral and documentary evidence, rejected the claim petition. Aggrieved by the same, the appellant has filed this appeal before this Court.

4. The learned counsel for the appellant/claimant submitted that though the accident had happened on 04.07.2007, however, immediately, the appellant had intend to lodged a police complaint before the law enforcing agency. The appellant has presumed that he sustained only simple injuries. Subsequently, pain was increased. Thereafter, he was admitted in the hospital on 06.07.2007 as in patient and taken treatment and after discharging from the hospital, he lodged a complaint on 17.07.2007. The said facts has been established before the Tribunal and to that effect, he has marked the wound certificate and disability certificate and the Tribunal, without considering the fact, rejected the claim petition, which is unsustainable one.

5. Per contra, learned counsel appearing for the respondent/insurance company submitted that according to the second respondent, no such accident happened as alleged by the petitioner. The appellant has not proved the date, time



and place of the accident the accident. Before the Tribunal. Therefore, the Tribunal has rejected the claim petition, and this Court may dismiss the appeal.

6. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

7. On perusal of the award, it is seen that the accident had occurred on 04.07.2007 as alleged by the appellant. At the relevant point of time, A.R.Copy is not available. Thereafter, the appellant has admitted in the hospital. All the facts has established before the Tribunal.

8. On perusal of the witness of PW3, it is found that after the accident, both the vehicle got damaged and that both the vehicles were sent to police station immediately after the accident. Contrary to that on perusal of the Motor Vehicle Inspection Report/Ex.P3, it is seen that the vehicle owned by the appellant has not damaged in the accident. The first respondent's vehicle was damaged in front side. The said fact has not been properly established before the Tribunal. The Tribunal has elaborately



considered the issued and rightly rejected the claim petition.

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9. In the result, the civil miscellaneous appeal is dismissed. No costs.

27.11.2023

Index : Yes

Speaking Order : Yes

rli

To

The III Additional District Judge,

Motor Accidents Claims Tribunal, Puducherry.



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M.DHANDAPANI,J.

Rli

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