



C.M.A(MD)No.1112 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.M.A(MD)No.1112 of 2023

Sankar

... Appellant

.vs.

1.Ganesan

2.The New India Assurance Company Ltd.,
Through its Branch Manager,
Having Office at No.77/1, 1st Avenue,
Indira Nagar, Adayar,
Chennai-600 020.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, to set aside the award dated 15.09.2023 made in M.C.O.P.No.1228 of 2018 on the file of Motor Accident Claims Tribunal, Tirunelveli / Special Sub Court Dealing with MCOP Cases, Tirunelveli and consequently, direct the second respondent herein to pay the award for a sum of Rs.1,50,000/- with interest @ 12% per annum from the date of petition to till the date of payment to the appellant.

For Appellant : Mr.V.Sasi Kumar



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JUDGMENT

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This appeal is filed challenging the dismissal of the M.C.O.P.No. 1228 of 2018, dated 15.09.2023 on the file of the Motor Accident Claims Tribunal/Special Sub Court, Tirunelveli.

2. It is the submission of the learned counsel for the appellant that despite production of oral and documentary evidence to show that the appellant's vehicle, namely, Swaraj Mazda bearing Registration No.TN-76-Z-0318 had met with the road accident involving a two wheeler bearing Registration No.TN-69-AT-1257 and that the petitioner's vehicle suffered damages, the Tribunal, without considering the damage caused to the vehicle, dismissed the petition filed for claiming compensation for the damage caused to the vehicle.

3. Heard the learned counsel for the appellant and perused the records.

4. It is seen from the petition averments that on 03.10.2017 when the appellant was driving his Swaraj Mazda vehicle bearing Registration



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No.TN-76-Z-0318 in Tirunelveli to Tiruchandur Main Road from east to west direction, the rider of the two wheeler bearing Registration No.TN-69-AT1256 had come in a rash and negligent manner and dashed against the appellants's Swaraj Mazda vehicle. As a result, damage was caused to Swaraj Mazda vehicle bearing Registration No.TN-76-Z-0318. The appellant had spent a sum of Rs.1,04,000/- for repairing works. Apart from this amount, he has claimed various sum under the heads of loss of income, mental agony, etc., to the tune of Rs.1,50,000/-.

5. During the enquiry before the Tribunal, the appellant was examined as PW1 and produced Exs.P1 to P4 and Ex.C1, driving license of one Iyyappan was also produced.

6. From the oral and documentary evidence produced, the Tribunal found that the complaint was not given immediately after the accident. When it is claimed in the petition that the Swaraj Mazda vehicle bearing Registration No.TN-76-Z-0318 was driven by the appellant at the time of accident, during the course of cross examination, the appellant categorically admitted that this vehicle was driven by one Iyyappan. It is also admitted that Iyyappan paid penalty for driving the vehicle without



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license. Thus, on the ground of making a false claim that the accident had happened, when the appellant was driving the Swaraj Mazda and that the appellant has not examined the mechanic, who issued Ex.P4-Repairing Charge bill, the Tribunal rejected the claim. This Court, on going through the order of the Tribunal, finds that there is no reason to take a different view of the matter for the reason that the appellant has approached the Court with unclean hand with lie in his mouth. The fact remains that the Swaraj Mazda vehicle bearing Registration No.TN-76-Z-0318 was driven by one Iyyappan, was suppressed, but a wrong claim was made that the vehicle had driven by the appellant. A mere production of Ex.P4 -Repairing Charge Bill is not enough, unless it is proved by examining the author of this document that is also not done. In the said circumstances, this Court finds no reason to take a different view of the matter and the order of the learned Special Subordinate Judge, Tirunelveli, is confirmed.

7. In fine, this Civil Miscellaneous Appeal is dismissed. No costs.

Index :Yes/No
Internet :Yes/No
NCC :Yes/No

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To

The Motor Accident Claims Tribunal/ Special Subordinate Judge,
Tirunelveli.



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G.CHANDRASEKHARAN,J.

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