



C.M.A(MD)No.1267 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.M.A(MD)No.1267 of 2023

S.Gnana Raja Singh

... Appellant

.vs.

The Branch Manager,
United India Insurance Company Ltd.,
Marthandam Post,
Marthandam,
Kanyakumari District.

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the order and decree passed by the Motor Accident Claims Tribunal cum Subordinate Court, Kuzhithurai in M.C.O.P.No.64 of 2016, dated 18.08.2023 and pass an award directing the respondent/Insurance Company liable to pay entire quantum of compensation.

For Appellant : Mr.B.Christopher



C.M.A(MD)No.1267 of 2023

JUDGMENT

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This appeal is filed challenging the dismissal of M.C.O.P.No.64 of 2016, dated 18.08.2023, passed by the Motor Accident Claims Tribunal cum Subordinate Court, Kuzhithurai.

2. The appellant filed the claim petition seeking compensation of Rs.3,80,000/- for the injuries suffered in a motor accident. On 22.08.2014, the appellant was riding his own motor cycle bearing Registration No.TN-75-B-9787 towards his office at Kuzhithurai from Kackkottuvilai to Kalpalathadi on Thoothukudi Road from west to east direction. When he reached the back side of Reliance Petrol Bunk, the rider of the offending vehicle, had ridden the black colour pulser bike from east to west in a rash and negligent manner and hit on the right side of the petitioner's vehicle and escaped. As a result, petitioner suffered injury. In the said accident, he also suffered disability. Therefore, he filed the compensation petition.

3. The respondent opposes the claim petition stating that the appellant cannot maintain the claim petition against the respondent.



C.M.A(MD)No.1267 of 2023

When it is claimed that the accident had happened because of rash and negligent riding of another two wheeler, the appellant can only seek compensation against the offending vehicle's owner and insurer.

4. During the enquiry, on the side of the appellant, P.W1 and P.W.2 were examined and Ex.P1 to Ex.P18 were marked and on the side of the respondent, R.W.1 was examined and Ex.R1 was marked.

5. The learned Tribunal on going through the oral and documentary evidence found that the petitioner can maintain the claim petition only against the offending vehicle's owner and insurer and not against his own insurer. In this view of the matter, the learned Tribunal dismissed the claim petition. Challenging the dismissal, this appeal is filed.

6. It is submitted by the learned counsel for the appellant that the rider of the offending vehicle had escaped from the scene of accident. Therefore, the appellant, who suffered injury, was not able to see the number of the offending vehicle. For his own fault, he cannot be denied the compensation. The accident had happened in a public place while



C.M.A(MD)No.1267 of 2023

riding a motor vehicle which has validly insured with the respondent.

Thus, he seeks that the order of the Tribunal may be set aside and he may be awarded suitable compensation.

7. Considered the submission of the learned counsel for the appellant and perused the records.

8. From the oral and documentary evidence produced, it is no doubt that the appellant suffered injuries in a road accident. It is also not in dispute that his vehicle was insured with the respondent. However, even as per the admitted case of the appellant, the accident had happened because of another offending vehicle. The offending vehicle number is not known to the appellant. It is the case of hit and run case. Therefore, the petitioner has to move the concerned authority under Section 161 of Motor Vehicles Act, 1988 for seeking appropriate compensation. He is entitled only for coverage given in his insurance policy from his insurer i.e., Rs.1,00,000/- and that can be claimed even without filing a claim petition, but by simply filing a claim form before the respondent.



C.M.A(MD)No.1267 of 2023

9. In this view of the matter, this Court finds no reason to interfere with the order of the Tribunal and the same is confirmed. Accordingly, this Civil Miscellaneous Appeal is dismissed. The appellant can approach the concerned authority for seeking compensation under Section 161 of the Motor Vehicles Act, which deals with compensation in case of hit and run case. No costs.

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

13.12.2023

To

The Motor Accident Claims Tribunal/
Subordinate Judge,
Kuzhithurai.



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C.M.A(MD)No.1267 of 2023

G.CHANDRASEKHARAN,J.

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C.M.A(MD)No.1267 of 2023

13.12.2023