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CM.A.No.809 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2024

CORAM

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI,J.**

C.M.A.No.809 of 2020

1.V.Ramesh Babu

...Appellant

Vs.

1.M.Nagarajan

2.HDFC General Insurance Company Ltd.,

Rep., by its Manager,

528/529, 1st Floor Anna Salai,

Tenampet,Chennai- 600018

...Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act,1988, against the judgment and decree dated 20.08.2019 made in M.C.O.P.No.211 of 2016 on the file of the Motor Accident Claims Tribunal,(III Additional District and Sessions Judge, Cuddalore at Virudhachalam.



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For Appellant : Mr.S.Udayakumar
For RR1 : No appearance
For R2 : N.Somasundaar

JUDGMENT

This Civil Miscellaneous Appeal is preferred by the claimant, challenging the judgment and decree dated 20.08.2019 passed by the Motor Accident Claims Tribunal (III Additional District and Sessions Judge, Cuddalore at Virudhachalam) in M.C.O.P.No.211/2016.

2. The accident occurred on 30.04.2016, at about 3.30 p.m., in Virudhachalam near Raja Backery in South Fort Street. The Virudhachalam Police Station, registered a case in Crime No.327/2016.

3. The claimant was working as a painter and was earning a Sum of Rs.25000/- per month. The deceased filed the above claim petition under Section 166 and 140 of the Motor Vehicles Act, 1988, for a compensation of Rs.5,00,000/- for the injury sustained by him in the said accident.



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4. The Tribunal adjudicated the issues with reference to the documents and the evidences and came to the conclusion that the accident occurred due to the rash and negligent driving of the 1st respondent vehicle driver. However, the Tribunal directed the owner of the vehicle to pay the compensation. By stating that the offending vehicle was not registered at the time of accident.

5. Aggrieved by this, the claimant is on appeal.

6. The learned counsel appearing for the claimant would submit that though the vehicle was not registered at the time of accident, the Tribunal ought to have ordered pay and recovery and that a third party cannot be made to suffer. To support his contention, the learned counsel has relied upon the following decision cases reported in :

1.2020 (1) TN MAC 407

2. 2015 ACJ 236

3.2024 (1) TN MAC 86

4.2020 (1) TN MAC 531 (Del.)

7. On the other hand, the learned counsel appearing for the respondent/Insurance Company would submit that though the vehicle was



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purchased on 12.12.2014, the same was not registered till the date of the accident and therefore, the Insurance Company is not liable to pay compensation. Hence, the Tribunal has rightly held that the owner is alone liable to pay the compensation, which requires no interference.

8. Heard on both sides, records perused.

9. Admittedly, the offending vehicle was not registered at the time of the accident. Though the vehicle was purchased about two years prior to the alleged accident, the owner of the vehicle failed to register the vehicle and plighted the vehicle on the road. This conduct of the owner ought to be condemned. The owner of the vehicle did not even sought for extension of time for registering the vehicle till the date of accident. However, it has to be seen whether it is a breach of policy condition. With regard to this Section 39 of Motor Vehicles Act is extracted here under:

"39. Necessity for registration-No person shall drive any Motor Vehicle and no owner of a Motor Vehicle shall cause or permit the Vehicle to be driven in any Public place or in any other place unless the vehicle is registered



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in accordance with this Chapter and the Certificate of Registration of the vehicle has not been suspended or cancelled and the vehicle carries a Registration mark displayed in the prescribed manner

Provided that nothing in this Section shall apply to a Motor Vehicle in possession of a Dealer subject to such conditions as may be prescribed by the Central Government.

Corresponding Law: Section 39 corresponds to Section 22 of the Motor Vehicles Act, 1939.

Objects and Reasons: Clause 39 prohibits the driving of a Motor Vehicle in any Public place or in any other place without registering it under the provisions of this Chapter. It also empowers the State Government to prescribe conditions subject to which the provisions of this clause will not apply to the motor vehicles in possession of Dealers."

10. Therefore, if a person drives a vehicle without registration, it is an offence punishable under Section 192 of the Motor Vehicles Act.



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Therefore, non registration of the vehicle cannot be termed as a breach of policy condition. The victim and third party claimant cannot be made to suffer on account of technical defects. Admittedly, there is a valid Insurance policy at the time of accident. In such cases, insurer can be directed to pay and recover. The Tribunal ought to have applied the principles laid down in ***Oriental Insurance Company Limited vs. Nanjappan and Others*** reported in **(2004) 13 SCC 224** and granted pay and recovery enabling the claimant to get compensation without undue delay.

11. Therefore, this Court is of the considered opinion that even if it is a case of non registration of vehicle, the claimant is entitled for compensation, in view of the fact, the claimant is a third party and pay & recovery can be ordered.

12. In the result, the judgment and decree dated 20.08.2019 in M.C.O.P.No.211 of 2016 passed by the Motor Accident Claims Tribunal (III Additional District Sessions Judge) Cuddalore, at Virudhachalam is modified. The respondent/Insurance Company is directed to deposit the



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compensation amount awarded by the Tribunal together with interest as directed by the Tribunal, within a period of six weeks from the date of receipt of copy of this judgement and recover the said amount of compensation by filing execution petition in accordance with law. The Civil Miscellaneous Appeal is allowed on the following terms. However, there shall be no order as to costs.

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vsn

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

To

1. The Motor Accident Claims Tribunal,
III Additional District and Sessions Judge,
Cuddalore at Virudhachalam.

2. The Section Officer,
VR Section, High Court, Madras.



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K.GOVINDARAJAN THILAKAVADI, J.

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