



Civil Miscellaneous Appeal No.2797 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.2797 of 2023

Saravanan

... Appellant

Vs.

1. T.Kumar

2. T.Ravichandran

3. United India Insurance Co Ltd.,
Silingi Buildings, New No.134,
Old No.40-45, Greaves Road,
Chennai 600 006

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree in M.C.O.P.No.3321 of 2019 dated 11.11.2022 on the file of the Motor Accident Claims Tribunal / II Judge, Small Causes Court, Chennai.

For Appellant : Mrs.Ramya V Rao

For Respondents : Mr.R.Harikrishnan

for Mr.Govind Chandrasekhar

M/s.R.Vijayakumar for R3

Mr.K.M.D.Mohilan,

Government Advocate



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JUDGMENT

This appeal has been filed by the claimant against the award passed by Motor Accident Claims Tribunal / II Judge, Small Causes Court, Chennai, dated 11.11.2022 dismissing the claim petition.

2. The case of the claimant is that on 25.08.2018, when the claimant was proceeding from Thirunavalur to G.K.Puram as a pedestrian at about 17.00 hours, the offending vehicle which was a Tractor came from behind and dashed on the claimant. As a result of which, the claimant sustained serious injuries. An FIR came to be registered in Crime No.833 of 2018 against the driver of the offending vehicle. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3. The Tribunal on considering the facts and circumstances of the case and the materials available on record heavily relied upon the Accident Register copy which was marked as Ex.P1 and came to a



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conclusion that the accident had not taken place in the manner in which the claimant was attempting to portray it. The Tribunal came to a conclusion that the injuries were sustained by the claimant in the work place and whereas, the claimant was attempting to come up with a case as if the injuries were sustained due to a motor accident. Accordingly, the Tribunal did not find any ground to entertain the claim petition and grant compensation and consequently, dismissed the claim petition.

4. Aggrieved by the award passed by the Tribunal, the claimant has filed the present appeal before this Court.

5. When the matter came up for hearing on 22.07.2024, this Court passed the following order:-

The claim petition was dismissed by the Tribunal by taking note of the accident register copy which was marked as Ex.P.1. The entry in the accident register copy shows as if the accident had taken place in a work place. However, the claim petition came to be filed on the ground that it was a motor accident case.

2.When the matter was taken up for hearing, the learned



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counsel for the appellant submitted that an FIR was registered against the driver of the offending vehicle in Crime No.833 of 2018. Based on the statement recorded from the claimant and the request made by the investigation officer, correction was also made in the accident register copy by the concerned doctor. The true facts were set forth in the accident register copy. It is also seen that the driver of the vehicle had paid the fine of Rs.1,000/- in STC No.220 of 2019, on the file of the Judicial Magistrate No.II, Ulundurpet on 12.07.2019.

3.This Court wants to get clarity on all the above facts. Therefore, this Court requested Mr.K.M.D.Muhilan, learned Government Advocate to take instructions to get the entire CD file. Registry is directed to print the name of Mr.K.M.D.Muhilan, learned Government Advocate in the cause list.

4.Post this case under the caption 'for orders' on 31.07.2024.

6. When the matter was taken up for hearing today, Mr.K.M.D.Muhilan, learned Government Advocate, submitted the entire case diary pertaining to Crime No.833 of 2018. On going through the same, it is seen that the accident Register has in fact been altered by the Medical officer belonging to the Government Villupuram Medical



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College and Hospital. It is also apparent that the final report was filed as against one Pugazhmani before the learned Judicial Magistrate II, Ullundurpet for offence under Section 338 and 279 of IPC. The same was taken on file in STC No.220 of 2019. Ultimately, the matter came before the Lok Adalat and the accused person admitted guilt. A fine of Rs.1,000/- was imposed and it was also collected. STC No.220 of 2019 was accordingly disposed of on 13.07.2019.

7. All the above records would show that there is a *prima facie* case to come to a conclusion that there was in fact a motor accident and there was some confusion regarding the entry that was made in the Accident Register which was subsequently corrected.

8. The Tribunal did not have the opportunity to go through the final report filed against the accused person and also the ultimate closure of the case after the accused person admitted to the offence and paid the fine before the Lok Adalat.

9. The learned counsel appearing on behalf of 3rd respondent



insurance company submitted that the claimant was aware of all the facts and did not choose to file any of the documents that are now relied upon in the appeal. It was therefore contended that the claimant is filling up the lacuna and the same should not be entertained in an appeal. Therefore, the learned counsel argued that there are absolutely no merits in this appeal and that the same is liable to be dismissed by this Court.

10. In the considered view of this Court, there are some materials which will definitely have a bearing in the claim that is made by the appellant, who is seeking for payment of compensation. The Tribunal was looking into the Accident register copy and also the claim made by the appellant and found that it was mutually contradictory. The Accident Register copy projected a case as if the accident had happened in a work place and whereas, the claimant was attempting to come up with a case as if the injury was sustained due to a motor accident. There was no occasion for the Tribunal to go into the altered / corrected Accident register copy and test its genuineness. Similarly, the Tribunal also did not have the opportunity of look into the final report and the ultimate closure of the Criminal case after the accused person pleaded guilty.



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Therefore, in order to render substantial justice, this Court wants to remand the matter back to the file of the Tribunal.

11. This Court did not render any finding on merits on the materials that were placed at the time of appeal since it will have a bearing before the Tribunal while dealing with this issue on merits. This Court is convinced that there are materials to proceed further with the claim and that should not be prevented. That is the reason why, this Court is inclined to remand the matter back to the file of the Tribunal. That apart, if ultimately the Tribunal is convinced that the accident had taken place only due to the negligence on the part of the driver of the offending vehicle on reassessment of the evidence, the Tribunal has to fix the compensation, at which point of time, the respondent will have to be heard. This is yet another reason as to why the matter is remanded back to the file of the Tribunal.

12. In the light of the above discussion, the award passed by the learned Motor Accident Claims Tribunal / II Judge, Small Causes Court, Chennai in M.C.O.P.No.3321 of 2019 dated 11.11.2022 is hereby set



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aside and the matter is remanded back to the file of the Tribunal. The Tribunal shall examine the parties and proceed further to decide the case on its own merits and in accordance with law. This process shall be completed by the Tribunal within a period of four months from the date of receipt of a copy of this order.

13. In the result, this Civil Miscellaneous appeal is allowed in the above terms. No costs.

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Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To, Motor Accident Claims Tribunal / II Judge, Small Causes Court,
Chennai.



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