



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3474 of 2019

N.Rajendiran

.. Appellant

Vs.

1. N.M.Ramamoorthy

2. P.Venkatesan

3. K.Jayanthi

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 (1) of Motor Vehicles Act, 1988, to set aside the order made in M.C.O.P.No.130/2012 on the file of the Motor Accident Claims Tribunal, II Additional District and Sessions Court, Vellore @ Ranipet, Vellore District dated 02.03.2019.

For Appellant : Mr.R.Siddharth
For Respondents :

J U D G M E N T

Challenging the negligence fixed on the appellant to pay compensation awarded by the Tribunal in MCOP.No.130/2012 on the file of the Motor Accident Claims Tribunal, II Additional District and Sessions Court, Vellore @ Ranipet, dated 02.03.2019, the appellant has preferred this



Civil Miscellaneous Appeal.

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2. The claimant has filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.2,00,000/- before the Motor Accident Claims Tribunal, II Additional District and Sessions Court, Vellore @ Ranipet, for the injuries sustained by her in a road accident that took place on 27.04.2008.

3. Brief fact which are necessary for disposal of this appeal is as follows:-

On 27.04.2008 at about 6.00 p.m, the appellant was walking along Arakkonam - Sholinghur road. When she was nearing Salai Koot Road, near Arakkonam, a Tractor bearing Registration number TN-20-F-6150, hit against the claimant and caused injuries and admitted in the hospital for treatment. Thereby, the appellant/claimant has filed a claim Petition before the Motor Accidents Claims Tribunal claiming compensation of Rs.2,00,000/- against the owner of the vehicle and its driver.

4. Before the Tribunal, during trial, in order to prove the case, on the



side of the claimant, one witness was examined PW1 and marked 7 documents viz., Exs.P1 to P7, On the side of the appellant, two witnesses were examined and one document was marked. The Tribunal, considering the pleadings, oral and documentary evidence, allowed the petition in part and awarded a sum of Rs.2,00,000/- by directing the first respondent therein to pay the compensation to the claimant and thereafter, recover the same from the third respondent therein/appellant herein. Aggrieved by the said award, the appellant has filed this appeal before this Court questioning liability.

5. The learned counsel for the appellant submitted that admittedly, the first respondent is the owner of the offending vehicle viz., tractor and trailer and the second respondent is the driver. The second respondent has driven the vehicle in a rash and negligent manner and dashed against the third respondent/claimant. After the accident, the first respondent has taken a defence that he sold the offending vehicle to the appellant before the accident. The Tribunal failed to note that there is no material proof produced by the first respondent herein to show the vehicle was in possession and control of the appellant herein. Even then, the Tribunal has



fixed the entire liability against the appellant herein, which is not sustainable.

6. Per contra, learned counsel appearing for the first respondent submitted that on the date of the accident, the first respondent is not the owner of the vehicle and he has sold the vehicle to the appellant on 20.01.2008. On that day itself, the appellant has given delivery letter for taking delivery of the said vehicle which was marked as Ex.R1 before the Tribunal. After examining the said document, the Tribunal has come to the conclusion that the appellant is the owner of the vehicle. Hence, fastening the liability on the appellant by the Tribunal is perfectly in order and the same needs no interference. Hence, this Court may dismiss the appeal.

7. 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.

8. The factum of the accident is not disputed by the parties and so also the negligence and quantum. Therefore, this Court is not entering into



the said aspect. The only grievance of the appellant is with regard to the liability.

9. On perusal of the award, it is seen that the first respondent/RW1 has deposed that he has sold the vehicle to the appellant on 20.01.2008 prior to the accident. To that effect, he has produced the delivery letter before the Tribunal, in which, the appellant has made his signature and the signature was admitted by the appellant. On the contrary, the appellant/RW2 has deposed that he is not the owner of the vehicle at the time of the accident and he is no way connected with the offending vehicle. The first respondent has not produced the RC book of the tractor before the Tribunal.

10. It is to be noted that the driver of the Tractor stated that the appellant has engaged him and in the cross examination, the appellant has admitted his signature in the delivery letter which was produced by the first respondent. Based on the admission made by the appellant, the Tribunal came to the conclusion that the appellant is the owner of the tractor.

11. On perusal of the award, it is seen that at the time of the accident,



the first respondent has not changed the ownership for the said Tractor which involved in the accident in the RC Book. However, it is found that the offending vehicle is in possession and control of the appellant. Therefore, the Tribunal has directed the first respondent to pay compensation to the claimant and recover the same from the appellant, which is perfectly in order and the same does not warrant any interference. The appeal filed by the appellant is liable to be dismissed and there is no merit in the appeal.

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

28.11.2024

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Index : Yes

Speaking Order : Yes

To

The Judge,

Motor Accident Claims Tribunal cum

Fast Track Court No.IV, Bhavani,



Erode District

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M.DHANDAPANI,J.

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