



C.M.A.No.443 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 17.04.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.No.443 of 2023

K.Sivamani

.. Appellant

Vs.

1.VKS Farms P Ltd.,
No.31, Subramaniam Road,
R.S.Puram, Coimbatore – 641 002.

2.M/s.United India Insurance Company Ltd.,
No.3E, Balavinayakar Koil Street,
Tuticorin – 628 002.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the judgment and decree made in M.C.O.P.No.596 of 2019 on the file of the MACT / Principal District Court at Namakkal, dated 01.03.2021 and to award just and reasonable compensation by allowing the appeal with interest at rate of 12% and cost.

For Appellant : Mr.Ma.P.Thangavel

For R1 : Mr.R.Shriram Adhithyan

For R2 : Ms.I.Malar

J U D G M E N T



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The claimant aggrieved by the dismissal of the claim petition filed in M.C.O.P.No.596 of 2019 on the file of the Motor Accident Claims Tribunal, Principal District Court, Namakkal, by award dated 01.03.2021 has filed the present appeal before this Court.

2.The case of the claimant is that he was standing by the side of the road on 06.01.2019 near Aniyapuram Thollur Bus Stop Cut Road and at about 05.50 P.M., the offending vehicle belonging to the 1st respondent bearing Registration No.TN 37 BK 8166 was driven in a rash and negligent manner and it hit the claimant resulting in the claimant sustaining grievous injuries with multiple fractures. An FIR came to be registered in Crime No.13 of 2019 based on the statement that was recorded from the claimant when he was taking treatment at the Hospital. 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 on appreciation of the evidence available on record, came to a conclusion that there was a mistake in identity of the offending vehicle based on the Registration Number of the vehicle that was mentioned in



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the FIR and in the Final Report marked as Ex.P1 and Ex.P3 and therefore, the Tribunal had chosen to dismiss the claim petition. Aggrieved by the same, the present appeal has been filed before this Court.

4.Heard the learned counsel for the appellant, learned counsel for the 1st respondent and the learned counsel for the 2nd respondent.

5.This Court has carefully considered the submissions made on either side and the materials available on record.

6.This Court has also carefully gone through the award passed by the Tribunal.

7.On carefully going through the claim petition filed by the appellant, it is seen that the appellant has consistently mentioned the vehicle number as TN 37 BK 8166 and has shown the 1st respondent as the owner of the vehicle and one Jayaraman as the driver of the vehicle. Even in the counter that was filed by the 2nd respondent, in more than one place, the Registration Number of the vehicle was mentioned as TN 37



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BK 8166. The Tribunal had also called for the copy of the Insurance Policy as well as the Registration Certificate pertaining to the offending vehicle which was marked as Exs.C1 & C2. These documents also established that the Registration Number of the car was TN 37 BK 8166 and it is owned by the 1st respondent.

8.The entire confusion happened due to wrong mentioning of the Registration Number of the vehicle as TN 37 DK 8066 in the body of the FIR. In view of the same, when the final report was filed, the very same mistake was repeated and it was mentioned even in the final report that the Registration Number of the offending vehicle is TN 37 DK 8066.

9.During the course of hearing, the learned counsel for the appellant was able to produce the Inspection Report of the Motor Vehicle Inspector which also shows that the Registration Number of the vehicle is TN 37 BK 8166 and the owner of the vehicle is the 1st respondent namely VKS Farms Private Limited and the driver of the vehicle was Jayaraman.

10.There are overwhelming materials before this Court to establish that the offending vehicle was bearing Registration No.TN 37 BK 8166.



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However, the Tribunal was swayed by what was mentioned in the FIR and in the final report and based on the same, the claim petition itself came to be dismissed. The said finding of the Tribunal is not sustainable. It is also brought to the notice of this Court that the accused person namely, Jayaraman had admitted to the guilt in S.T.C.No.173 of 2019 and had also paid the fine amount before the Judicial Magistrate No.II, Namakkal on 09.03.2019. This is yet another fact which clearly goes to show that a mistake had crept in the body of the FIR and also in the final report and instead of mentioning the Registration Number of the offending vehicle as TN 31 BK 8166, it was wrongly mentioned as TN 37 DK 8066.

11.In the light of the above discussion, this Court holds that there is no discrepancy in the identity of the vehicle, owner of the vehicle and also the driver of the vehicle and therefore the appellant is entitled to be considered for payment for compensation. In view of the same, the award passed by the learned Principal District Judge, Motor Accident Claims Tribunal, Namakkal, in M.C.O.P.No.596 of 2019 dated 01.03.2021 is hereby set aside. The matter is remanded back to the file of the Motor Vehicle Accident Claims Tribunal, Principal District Court, Namakkal.



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12.The Tribunal is directed to determine the compensation based on the oral and documentary evidence that is placed before the Tribunal after affording sufficient opportunity to the 2nd respondent-Insurance Company. The final award shall be passed within three (3) months from the date of receipt of a copy of this judgment. The documents that were placed before this Court namely, the Motor Vehicle Inspector Report and the disposal of the Criminal Case shall also be marked as additional documents.

13.In the result, this Civil Miscellaneous Appeal stands allowed with the above directions. No costs.

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To



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1.The Principal District Judge,
Motor Accident Claims Tribunal,
Namakkal.

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

N.ANAND VENKATESH, J.

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