



C.M.A.No.547 of 2020

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 11.06.2024

CORAM

THE HONOURABLE **MR. JUSTICE ABDUL QUDDHOSE**

C.M.A.No.547 of 2020

Appathurai

.. Appellant

Vs

1.A.Asokan

2.The New India Assurance Co. Ltd.,
No.66, West Boulevard Road,
Trichy – 620 002.

.. Respondents

Prayer: This Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 07.08.2013, made in M.C.O.P.No.259 of 2002, on the file of the Motor Accident Claims Tribunal, Sub-Court, Ariyalur.

For Appellant : Mr.V.Nicholas

For R2 : J.Chandran

R1 - dismissed vide order dated 12.04.2024



C.M.A.No.547 of 2020

JUDGMENT

This appeal has been filed by the claimant aggrieved by the award of the Tribunal dismissing his claim petition on the ground that the claimant has not produced any evidence to prove that the vehicle owned by the first respondent and insured with the second respondent was responsible for the cause of the accident, which resulted in the appellant/claimant sustaining injuries.

2. Before the Tribunal, the appellant/claimant has produced the following documents, which were marked as exhibits:-

- Ex.P1 - First Information Report
- Ex.P2 - Discharge summary
- Ex.P3 - Disability certificate
- Ex.P4 - X-ray
- Ex.P5 - Scan report
- Ex.P6 - Scan bill

On the side of the appellant/claimant, the claimant himself was examined as PW1 and one Dr.Kanmani was examined as PW2.



C.M.A.No.547 of 2020

3. On the side of the second respondent Insurance Company, the following documents were marked as exhibits:-

- Ex.R1 - Investigation report
- Ex.R2 - Notice dated 13.12.2006
- Ex.R3 - Returned postal cover
- Ex.R4 - Notice dated 17.11.2011
- Ex.R5 - Returned postal cover

Two witnesses were also examined on the side of the second respondent Insurance Company, namely, RW1 and RW2.

4. Admittedly, the FIR has been registered only against an unknown vehicle. The Tribunal, after giving due consideration to the evidence placed on record, has come to the right conclusion that the appellant/claimant has not produced any evidence to prove that the vehicle owned by the first respondent and insured with the second respondent was responsible for the cause of the accident, which resulted in the appellant/claimant sustaining injuries. No additional evidence is also placed before this Court by the appellant/claimant to prove that the vehicle owned by the first respondent and insured with the second respondent is responsible for the cause of the accident, which resulted in



C.M.A.No.547 of 2020

the appellant/claimant sustaining injuries.

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5. In the discharge summary/Ex.P2, PW2/doctor has noted that while riding the cycle, the claimant fell down and sustained grievous injuries. Even during the cross-examination, PW2 has deposed the same as noted in Ex.P2. Had the accident really occurred as alleged by the claimant, he ought to have marked accident register and wound certificate. But, no such document has been marked before the Tribunal. Therefore, I do not find any reason to interfere with the award passed by the Tribunal.

6. For the foregoing reasons, this Court is of the considered view that there is no merit in this appeal and accordingly, this Civil Miscellaneous Appeal is dismissed. No Costs.

11.06.2024

Index: yes/no

Neutral citation: yes/no

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C.M.A.No.547 of 2020

To

Motor Accidents Claims Tribunal,
Sub-Court,
Ariyalur.



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C.M.A.No.547 of 2020

ABDUL QUDDHOSE,J.

rkm

C.M.A. No.547 of 2020

11.06.2024