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C.M.A.(MD)No.580 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.12.2023

Pronounced on : 16.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.A.(MD)No.580 of 2023

and

C.M.P(MD)No.7527 of 2023

United India Insurance Company Limited,
No.241 E, Trichy Main Road,
Thuraiyur Taluk,
Trichy – 621 010.

... Appellant/2nd Respondent

Vs.

1.Ramakrishnan

2.The Secretary,
Imayam Institute of Agriculture and Technology,
Kannanur Post,
Thuraiyur Taluk,
Trichy – 621 206.

... 2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, to set aside the judgment and decree dated 21.04.2022 made in M.C.O.P.No.9 of 2021 on the file of the Motor Accidents Claims Tribunal/Sub Judge, Thuraiyur.

For Appellant : Mr.I.Suthakaran
For R1 : Mr.D.Boopal
For R2 : Mr.R.Manoharan



JUDGMENT

This Civil Miscellaneous Appeal is preferred against the Award dated 21.04.2022 passed in M.C.O.P.No.9 of 2021 by the Motor Accident Claims Tribunal/Subordinate Court, Thuraiyur.

2. The second respondent/Insurance Company in M.C.O.P.No.9 of 2021 is the appellant herein.

3. The first respondent is the petitioner/claimant filed the claim petition in M.C.O.P.No.9 of 2021.

4. For the sake of convenience, the parties arrayed in M.C.O.P.No.9 of 2021 is adopted hereunder.

5. The brief facts of the case:

On 31.08.2020 at about 5.30 a.m. the petitioner was riding a two wheeler Hero Deluxe bearing registration number TN 48 ATR 8546 along with one Ramakrishnan as pillion rider along Thuraiyur to Musiri road. At that time, the first respondent's Mahindra Bolero bearing registration number TN 04 AA 1238 was driven by its driver in a rash and negligent manner from opposite side and dashed against the two wheeler. Due to impact the petitioner and the rider sustained multiple



injuries. The petitioner sustained fracture and was admitted as inpatient at Seenivasa Hospital, Thuraiyur from 31.08.2020 to 01.09.2020 and then at Ganga Hospital, Coimbatore from 11.09.2020 to 07.10.2020 as inpatient. The petitioner was aged 34 years at the time of accident and was working as lorry driver and was earning Rs.30,000/- p.m. He was assessed 50% permanent disability. Hence, the petitioner filed claim petition seeking compensation of Rs.25,00,000/-.

6. The second respondent/Insurance Company objected the claim petition by contending that the accident took place due to negligence of the rider of the two wheeler, who has no valid driving licence at the time of accident. Therefore, the petitioner is not entitled to the compensation from the second respondent.

7. Before the Tribunal both side adduced oral and documentary evidence. After hearing both and after considering the evidences, the Tribunal Court has held negligence on the driver of the first respondent's car and awarded compensation of Rs.24,36,656/- to the petitioner. Aggrieved by the said award, the appellant/second respondent has preferred this Civil Miscellaneous Appeal.



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8. Heard both side and perused the records in this Civil Miscellaneous Appeal.

9. On perusal of records, it is clear that the FIR and charge sheet was registered against the driver of the first respondent's car. Though the second respondent took plea that due to negligence of rider of two wheeler, who has no valid driving license, the second respondent has not established the same by producing acceptable evidence. During the course of argument at the admission stage, the learned counsel for the appellant has submitted that the appellant/2nd respondent deposited the entire award amount as awarded by the Tribunal. The learned counsel for the appellant has also submitted that the entire awarded amount deposited by the appellant/2nd respondent was withdrawn and the execution petition filed by the petitioner was also withdrawn. In such circumstances, this Court holds that the appellant/2nd respondent has no sufficient cause in this appeal, that is why, the appellant has deposited the entire amount instead challenging the award before this Court. Therefore, the compensation awarded by the Tribunal is held correct and the same is not liable to be set aside.



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10. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 21.04.2022 passed by Motor Accident Claims Tribunal/Subordinate Court, Thuraiyur in M.C.O.P.No.9 of 2021 is confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

16.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

- 1.The Motor Accidents Claims Tribunal/Sub Judge,
Thuraiyur.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Judgment made in
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16.02.2024