



C.M.A.(MD).No.817 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 01.08.2024

DELIVERED ON : 21.08.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.M.A.(MD).No.817 of 2022
and C.M.P.(MD).No.7571 of 2022 and 5408 of 2023

M/s.National Insurance Co. Ltd.,
Branch Manager,
Kalaingar Malligai 1st Floor,
Dindigul.

... Appellant/Respondent No.3.

Vs.

1.Nageswaran

... Respondent No.1/Petitioner

2.Rani

... Respondent No.2/Respondent No.1

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the Judgment and decree dated 15.03.2022 passed in M.C.O.P.No.239 of 2019 on the file of MACT/Chief Judicial Magistrate, Dindigul.

For Appellant : Mr.P.Malini

For Respondents : Mr.S.Pugalendhi for R1
No Appearance for R2



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JUDGMENT

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This appeal has been directed against the Judgment and decree dated 15.03.2022 passed in M.C.O.P.No.239 of 2019 on the file of MACT/Chief Judicial Magistrate, Dindigul.

2.The facts in brief:

On 24.02.2019 at about 04.00 p.m., the petitioner was travelling as a passenger in an Auto Rickshaw bearing registration No.TN 57 BC 0496. At that time, the rider of the above said vehicle drove the vehicle in rash and negligent manner and caused the accident. As a result of which, the petitioner sustained grievous injuries, taken to the JCB Hospital, Dindigul and taking treatment as inpatient from 24.02.2019 to 03.03.2019 and underwent surgery there. Over the above said occurrence, a case in Crime No.36 of 2019, was registered for the offences under Sections 279 and 337 of IPC on the file of Eriyodu Police Station. Claiming compensation amount of Rs.8,00,000/- the claimant filed the petition.

3.That was resisted by the Insurance Company by filing counter



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stating that against the permit, the first respondent loaded excess passengers. Moreover, the petitioner is a gratitude passenger in the Auto.

4.Regarding the negligence aspect, the trial Court recorded a finding that case was registered against the first respondent and the manner of the accident itself, does indicate the manner of the accident on the part of the vehicle driver.

5.Regarding compensation, he was referred to the Medical Board. The Medical Board assessed the disability as 5%. Rs.4,000/- was taken as base for compensation for the disability for 1%. So he awarded with Rs.25,000/- and to that other customary amounts were added and finally awarded Rs.1,23,225/-.

6.Regarding the liability, it is concluded that there was violation in the policy conditions. The permitted passengers in the auto is only 3. But, against that permit conditions 5 persons were taken by the first respondent in the vehicle. So there is policy violation and also the permit violation. But, however, the Insurance company was directed to pay the



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award amount and recover the same from the first respondent. Against which, this appeal is preferred by the Insurance Company. The learned counsel for the appellant would submit that in the FIR, it was mentioned that one Sathish was driving the three wheeler. Sathish had no driving licence. So all of a sudden one Vanijeyaram was introduced stating that he drove the vehicle. According to the appellant, this itself shows the falsification of the claim.

7.Per contra, the learned counsel for the respondent would submit that Sathish was also called as Vanijeyaram. So there is no falsification of the claim. Apart from that the respondent filed C.M.P.(MD).No.5408 of 2023, seeking permission of the Court to produce the additional documents. Along with the additional documents, the copy driving licence of the Vanijeyaram is enclosed, which shows that he was issued with the licence on 18.12.2013. It was valid upto 17.12.2033. Address shown as No.5/4, Bala Ganesan Nagar, 2nd Street, Padiyanallur, Chennai.

8.So for the reasons stated above, the above said C.M.P.(MD).No. 5408 of 2023 is allowed and the driving licence is marked as Ex.P8 on



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the side of the claimant.

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9.The learned counsel further submitted that even in the claim application, the driver's name is mentioned as Sathish @ Vanijeyaram. Claimant's mother is the first respondent in the main petition. So according to him, those documents will show that Sathish was also known as Vanijeyaram. No doubt that the name of the Sathish tallies with all the address mentioned in the driving licence. So there is enough material to show that Sathish and Vanijeyaram are one and the same person. So specifically when the claimant is the son of the first respondent, who is the owner of the vehicle, he would have proper knowledge regarding the name of the driver. So I find absolutely, no reason to reject that contention. Now, we will go to the finding of the trial Court on that aspect. There is no direct finding of the trial Court on that aspect that Sathish was also called as Vanijeyaram. But, as mentioned above, the evidence of the claimant need not be rejected without any substantial reason on that aspect.

10.So except that point, no other point was raised or argued by the



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appellant's counsel.

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11.In view of the above, this civil miscellaneous appeal fails and stands dismissed. The award passed by the Tribunal in M.C.O.P.No.239 of 2019 dated 15.03.2022 on the file by the Chief Judicial Magistrate, Motor Accident Claims Tribunal, Dindigul, is hereby confirmed. No costs. Consequently, connected C.M.P.(MD).No.7571 of 2022 is closed.

21.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
TM

Note: Registry is directed to mark the copy of driving licence of Mr.Vanijeyaram, as Ex.P8.

To

1.The Chief Judicial Magistrate, Motor Accident Claims Tribunal,
Dindigul.

2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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