

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 03.10.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI**C.M.A. (MD) No.820 of 2013**

R.Sangeetha

... Petitioner/Claimant

Vs.

1.P.Annalakshmi

2.The New India Assurance Co. Ltd.,
rep. by its Branch Manager,
Kamarajar Salai,
Madurai-9.

3.Balamurugan

4.The United India Insurance Co. ltd.,
rep. by its Branch Manager,
Door No.406, Periyakulam Road,
Theni District.

...Respondents/Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award made in M.C.O.P.No.728 of 2000, dated 05.11.2003, on the file of the Motor Accident Claims Tribunal (IV Additional Sub Court), Madurai.

For Appellant

: Mr.P.K.Rajendran

for M/s.Veera Associates

For R1

: Mr.R.Suresh Kumar

For R2

: Mr.G.Prabhu Rajadurai

For R4

: Mr.Royce Immanuel

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JUDGMENT

The appellant/claimant has filed the present appeal challenging the dismissal of the claim petition in M.C.O.P.No.728 of 2000, dated 05.11.2003, by the Motor Accident Claims Tribunal (IV Additional Sub Court), Madurai.

2.According to the appellant, while she was travelling as pillion in the Two wheeler bearing Registration No.TN-60-4012, a motorcycle bearing Registration NO.TN-59-J-5613 belonging to the first respondent insured with the second respondent, came behind in a rash and negligent manner and dashed against the two wheeler in which, the appellant was travelling in pillion.



3.The Tribunal, considering the pleadings, oral and documentary evidence, dismissed the claim petition.

4.Aggrieved by the said order of dismissal, the appellant has come out with the present appeal.

5. The learned counsel appearing for the appellant contended that the Tribunal erred in dismissing the claim petition on the ground of delay in lodging the complaint and involvement of the vehicle in the accident was not proved. The Tribunal failed to see that the appellant satisfactorily explained the delay in lodging the complaint. The first respondent, who is the owner of the vehicle, has surrendered before the police and also appeared before the Tribunal, but did not deny the involvement of the motorcycle belonging to him. The Tribunal failed to consider this aspect in proper perspective and erroneously dismissed the claim petition. The Tribunal ought to have awarded compensation.

6.I have heard the learned counsel appearing for the appellant and the respondents and perused the materials available on record.

7.From the materials on record, it is seen that the appellant lodged the complaint after 5 months of the alleged accident. In the said complaint, the appellant has stated that she fell down from Sunny Scooter and sustained injuries and she is lodging the complaint at the instance of her brother. Before the Tribunal, the appellant and other witnesses have failed to prove that the accident occurred as alleged by her in the claim petition. The Tribunal considering the above facts, contradictions in the pleadings, FIR and oral evidence, dismissed the claim petition holding that the appellant failed to prove the involvement of the vehicle belonging to the first respondent in the accident. There is no reason to interfere with the findings of the Tribunal.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-

Assistant Registrar (T&P)

/ True Copy /

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal
(IV Additional Sub Court), Madurai.

2.The Record Keeper, V.R.Section,
<https://hcservices.ecourts.gov.in/hcservices/>
Madurai Bench of Madras High Court,
Madurai (2 copies)



+1CC to Mr.S.Royce Immanuel, Advocate, SR.No. 88145
+1CC to Mr.G.Prabhu Rajadurai, Advocate, SR.No.88618

C.M.A. (MD) No.820 of 2013
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