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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2020

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.1917 of 2016

1.Priyadarshni
2.Suseela
3.Sakthivel

...Appellants/Claimant

/versus/

1.Vadivel

2.Iffco-Tokio General Insurance Co.Ltd.,
Tulsi Chambers, 3rd Floor,
195, T.V.Swamy Road(w), R.S.Puram,
Coimbatore

...Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree in M.C.O.P.No.898 of 2010, dated 28.03.2014 on the file of the Motor Accidents Claims Tribunal, Sub Court, Sankari.

For Appellants :M/s.C.Paraneedharan

For Respondents :Ms.Saraswathi
C.R.Krishnamoorthy for R2

J U D G M E N T

(The case has been heard through video conference)

Heard the learned counsel for the appellants and the learned counsel for the 2nd respondent.

2. The claim petition filed under Section 166 by the claimants of the accident victim was dismissed by the Tribunal on the ground that the evidence placed before the Tribunal indicates and proves that the accident occurred due to negligent of the unknown vehicle, which hit and run. The respondent Insurance Company which has insured the two wheeler is no way responsible for compensation. Since, the vehicle is unknown four wheeler, relying upon the judgment of this Court in National Insurance Company Ltd., Vs. M.Khader Basha and others, the Tribunal has held that the 2nd respondent/Insurance Company is not liable to pay any compensation to the claimants under



Section 166 of the Motor Vehicles Act, when there is no negligence on the part of the rider of the vehicle which is insured under the 2nd respondent/Insurance Company.

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3. The Tribunal has also pointed out that the claimants can proceed under Section 163 of the M.V.Act for compensation under hit and run category.

4. Aggrieved by the said dismissal the present appeal is filed.

5. On perusing the grounds of the appeal, this Court finds nothing substantial to challenge or vary from the findings of the Tribunal award. Hence, this Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

//True copy//

Sub Assistant Registrar

rpl

To

The Motor Accident Claims Tribunal,
Sub Court, Sankari.

+1cc to Mr.C.R.Krishnamoorthy, Advocate SR.No.30633

C.M.A.No.1917 of 2016

VGA (CO)

GMV (20/04/2021)