



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.04.2021

CORAM:

THE HONOURABLE **MRS.JUSTICE R.THARANI**

C.M.A.(MD)No.591 of 2013

and

M.P.(MD)No.1 of 2013

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The Branch Manager,
National Insurance Co. Ltd.,
No.7/1, North Car Street,
Sivakasi.

... Appellant/Respondent No.2

Vs.

1.Danapal
2.M/s.Cornation Security,
Printers (P) Ltd.,
Sivakasi.

...1st Respondent/Petitioner

...2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the fair and decreetal order, dated 31.08.2012 made in M.C.O.P.No.45 of 2008, on the file of Motor Accidents Claims Tribunal (Sub Court), Sivakasi.

For appellant	: Mr.S.Srinivasa Raghavan
For R1	: Mr.M.Ashok Kumar
For R2	: No appearance

JUDGMENT

This Civil Miscellaneous Appeal is filed against the award passed by the Motor Accidents Claims Tribunal (Sub Court), Sivakasi, in M.C.O.P.No.45 of 2008, dated 31.08.2012.

2.The appellant herein is the second respondent, the first respondent herein is the claimant and the second respondent herein is the first respondent in M.C.O.P.No.45 of 2008.

3.Brief substance of the claim petition, in M.C.O.P.No.45 of 2008, is as follows:

On 25.12.2004, at about 06.00 a.m., when the claimant was riding his TVS Scooty bearing Registration No.TN-67-R-3480 along the Sivakasi- Srivilliputhur main road, in a slow speed observing the road rules, suddenly a Pig crossed the road. Due to that impact, the claimant fell down from the vehicle and sustained injuries. The claimant was earning Rs.5,000/- per month at the time of accident and the claimant has spent Rs.5,00,000/- (Rupees Five Lakhs only) towards medical expenses and the claimant is claiming a sum of Rs.5,60,000/- (Rupees Five Lakhs and Sixty Thousand only) as



compensation.

4. Brief substance of the counter filed by the first respondent (second respondent herein), in M.C.O.P.No.45 of 2008, is as follows:-

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The vehicle belonged to the first respondent (second respondent herein) and the same was insured with the second respondent (appellant herein). At the time of accident, the claimant was working in the Firm of the first respondent (second respondent herein) and the claimant was earning Rs.2,600/- (Rupees Two Thousand and Six Hundred only) per month and a sum of Rs.18,000/- (Rupees Eighteen Thousand only) was given to the claimant by the employee. The medical expenses claimed by the claimant is too excessive.

5. Counter filed by the second respondent (appellant herein), in M.C.O.P.No.45 of 2008, is as follows:-

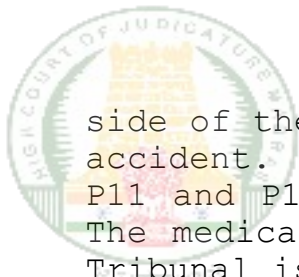
The accident took place only due to the rash and negligent driving of the claimant. The claimant has sustained only simple injuries in the accident. There is no disability and the claim made by the claimant under various heads are too excessive.

6. After trial, the Tribunal has awarded a sum of Rs.71,794/- (Rupees Seventy One Thousand Seven Hundred and Ninety Four only) as compensation to the claimant. Against the same, the appellant / Insurance Company has preferred this Civil Miscellaneous Appeal.

7. On the side of the appellant, it is stated that the injuries are caused only due to the rash and negligent driving of the claimant himself. The claim was made under various Sections and most of the Sections are not applicable to the present petition. If the claim is made under Section 163(A) of Motor Vehicles Act, there is no possibility for the claimant, to get compensation for the injuries. The claimant is at fault in not deleting the unwanted Section in the printed Format of the petition.

8. On the side of the first respondent / claimant, it is stated that due to the inadvertence, the counsel might have forgotten to delete the unwanted Section and that the claimant should not be penalised for the fault of the Advocate. It is stated that the claim of the claimant is proved before the trial Court. The accident had taken place due to the sudden crossing of a Pig.

9. It is seen that premium was paid by the owner of the vehicle and for the driver. It is seen that the F.I.R was registered against the claimant and subsequently, he was acquitted by the Criminal Court. Though the claimant was acquitted by the Criminal Court, the Tribunal has fixed the liability on the claimant. Since the claimant was acquitted by the trial Court and since the cause of accident is the sudden crossing of a Pig, there was no fault on the



side of the claimant. The Insurance policy was valid at the time of accident. A verification of the records, viz. Exs.P2, P7, P8, P9, P11 and P13 to P17, reveals that the claimant sustained injuries. The medical Bills are marked as Ex.P6 and the quantum fixed by the Tribunal is reasonable.

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10.In the above circumstances, there is nothing sufficient enough to interfere in the order of the Tribunal. Hence, this Civil Miscellaneous Appeal is dismissed and the award passed by the Motor Accident Claims Tribunal (Sub Court), Sivakasi, in M.C.O.P.No.45 of 2008, dated 31.08.2012, is hereby confirmed.

11.The appellant / Insurance Company, is directed to deposit the entire award amount along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit and costs within a period of eight weeks from the date of receipt of a copy of this judgment, if not already deposited. On such deposit being made, the first respondent / claimant is permitted to withdraw the amount after deducting amount, if any, already received by him. The Claimant is not entitled for interest for the default period if there is any default. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS I)

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/ /2021

Sub Assistant Registrar(CS)

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To

- 1.The Motor Accidents Claims Tribunal (Sub Court),
Sivakasi.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.(2C)

C.M.A. (MD) No.591 of 2013
23.04.2021

KK(23.06.2021) 3P 4C