



C.M.A.No.3562 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.3562 of 2013

and

M.P.No.1 of 2013

Iffco-Tokiyo General Insurance Co. Ltd.,
Jon Tower, 2nd Floor,
New No.24, Old No.302,
LIC Colony, Salem – 4.

... Appellant

Vs

1.K.Udayakumar

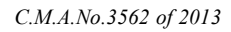
2.K.Srinivasan

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.93 of 2009, dated 18.06.2012 on the file of the Motor Accidents Claims Tribunal, 1st Additional Subordinate Judge, Salem.

For Appellant : M/s.Harini
for M/s.M.B.Gopalan Associates

For Respondents : Mr.K.Kuppusamy



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3.The first respondent was the owner of the motorcycle and the second respondent is the Insurance Company.

4.The second respondent/Insurance Company has filed a counter denying their liability to compensate the petitioner. The Motor Accidents Claims Tribunal, 1st Additional Subordinate Judge, Salem, before which, this claim petition in M.C.O.P.No.93 of 2009 was pending held that the accident had occurred due to the sudden appearance of the pedestrian crossing the road.

5.Ultimately, the Tribunal had awarded a compensation of a sum of Rs.50,000/-, the claim petition has been filed under Section 163A of the Motor Vehicles Act complying 2nd schedule. Challenging the same, the Insurance Company has preferred the above appeal.

6.Heard the learned counsels on both side and perused the materials available on record.



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7. Admittedly, the accident had occurred on account of the negligence on the part of the rider of the motorcycle, namely the petitioner himself, first respondent herein. Therefore, he is not entitled for compensation. However, he would be entitled to a sum of Rs.25,000/- under the head of no fault liability, since the accident has occurred only on account of his negligence.

8. Accordingly, the appeal is partly allowed and the Award of the Tribunal is modified, reducing the compensation amount from Rs.50,000/- to Rs.25,000/-. The Appellant-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.93 of 2009 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent/claimant is permitted to withdraw the award amount, along with proportionate accrued interest and costs as awarded by the Tribunal, less,



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the amount, if any already withdrawn, by filing necessary application before the Tribunal. There shall be no order as to costs in the present appeal.

Consequently, connected M.P. is closed.

12.09.2022

Index : Yes/No

Speaking order/non-speaking order

sp

To

1.The Motor Accidents Claims Tribunal, 1st Additional Subordinate Judge, Salem.

2.The Section Officer, V.R.Section, High Court, Madras.



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P.T.ASHA, J.,

sp

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