



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.2615 of 2021

Naveen

...Appellant/Petitioner

Vs

1.Karthikeyan

2.The Manager

Magma HDI Gen. Ins. Co. Ltd.,
Door No.98/99, 2nd Floor,
New No.140/150, Luz Church Road,
Mylapore, Chennai - 600 004.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and Decree in M.C.O.P.No.733 of 2017 dated 15.02.2019 on the file of the Motor Accident Claims Tribunal / Special Sub Judge, Cuddalore.

For Appellant : Ms.Ramya V. Rao

For Respondent 2 : Mr.S.Arun Kumar

For Respondent 1 : No Appearance

JUDGEMENT

The claimant has filed this appeal challenging the dismissal of his claim petition. The facts in brief are as follows.

2. The appellant has filed a petition for claiming compensation for the injury sustained by him in a road accident under Section 163 A of the Motor Vehicles Act, 1988.

3. The 2nd respondent Insurance company had filed a counter denying the accident and contending that the FIR lodged for accident has been closed as mistake of facts. They had also contended that the accident was the result of negligence on the part of the appellant himself.



4. The learned Motor Accident Claims Tribunal Judge, Cuddalore by order dated 15.02.2019 dismissed the said claim petition on the ground that the injury sustained by the appellant is simple in nature and applying the ratio of the Judgement of the Hon'ble Supreme Court reported in 2009 (2) SCC 417 - New India Assurance Company Ltd., Vs. Sadanand Mukhi and others held that the liability applying the provisions of Section 163 (A) since the claimant is the owner of the vehicle therefore the Insurance Company cannot be held responsible as the accident was caused by the appellant who is a pillion rider.

5. The tribunal has also observed that the appellant had not substantiated that the person who had drove the two wheeler had valid license. The appellant had also not impleaded the owner and the Insurance Company of the other two wheeler which caused the accident. The non joinder of the necessary parties was therefore fatal to the pleadings and therefore the petition was not maintainable. This order is the subject matter of challenge.

6. Mr.S.Arun Kumar, learned counsel for the Insurance Company would submit that since the injury is simple, petition under Section 163 A of the Motor Vehicles Act is not maintainable, as Section 163 A is applicable only in the case of death or permanent disablement.

7. The learned counsel appearing for the appellant / claimant fairly concedes the said point. Therefore the order of the tribunal has to be sustained in the light of the fact that the petition under Section 163 A of the Motor Vehicles Act, will not apply to the case of simple injury.

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

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To

1.The Motor Accident Claims Tribunal /
Special Sub Judge,
Cuddalore



Copy to

The Section Officer,
VR Section,
High Court,
Madras.

+1cc to Mr.S.Arunkumar, Advocate, S.R.No.9613

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KV (CO)
RN (25/03/2022)