



C.M.A(MD)No.655 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 08.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.M.A(MD)No.655 of 2009

Minor.Kannan
represented through his Father & Natural Guardian,
Thiru Ramar.

... Appellant

vs.

1.Alagupandi
2.M/s.The Oriental Insurance Company Ltd.,
Represented through its Divisional Manager,
Having Office at 216-A, Nethaji Road,
Madurai-01.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 25.11.2008 passed in M.C.O.P.No.1250 of 2002 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Madurai.

For Appellant : Mr.G.Prabhu Rajadurai

For R-1 and R2 : No appearance

For R3 : Dispensed with



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JUDGMENT

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This Civil Miscellaneous Appeal has been filed to set aside the judgment and decree, dated 25.11.2008 passed in M.C.O.P.No.1250 of 2002 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Madurai.

2. The case of the claimant, in nutshell, is as follows:

On 01.01.2001 at about 8.30 a.m the appellant's mother has laid down the paddies in the public ground for drying it in Thodaneari Village, where the minor appellant has also been playing along with his friends. At that time, the first respondent's two wheeler viz., TVS Suzuki Max 100, bearing Registration No.TN-58-D-2745 driven by its driver in a rash and negligent manner without sounding horn, dashed against the minor appellant. In the impact, he was thrown out and sustained injuries. Immediately, he was taken to the Government Rajaji Hospital, Madurai, where he was admitted as an inpatient from 01.01.2001 to 03.01.2001. Alleging that the accident had happened due to the rash and negligent riding of the rider of the two wheeler, the appellant filed claim petition claiming compensation of Rs.8,00,000/-.



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3.The present respondents contested the claim petition on all the grounds available to them.

4.Before the Tribunal, on the side of the claimant, four witnesses were examined as P.W.1 to P.W.4 and nine documents were marked as Exs.P.1 to P.9. On the side of the respondents, two witnesses were examined as R.W.1 and R.W.2 and two documents were marked as Exs.R.1 and R.2.

5.The Tribunal, considering the pleadings, both oral and documentary evidence let in by both the parties, dismissed the claim petition. Against the said order, the appellant has come out with the present appeal.

6.Heard Mr.J.Alaguram Jothi, learned counsel appearing for the appellant and Mr.A.K.Baskara Pandian, learned counsel appearing for the second respondent and perused the materials available on record.



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7.The main ground on which the present appeal is filed by the appellant is that one Kannan only drove the offending vehicle at the time of accident and that the appellant also proved the same by way of producing Ex.P2 and Ex.P5. But, the Tribunal erroneously dismissed the claim petition without awarding any compensation.

8. In the evidence of P.W.2, she has clearly stated that one Sathish, S/o.Soundarapandi Vathiyar drove the offending vehicle in a rash and negligent manner and dashed against her son. Even, in FIR relating to the accident, it has been stated that one Sathish, S/o.Soundarapandi Vadhiyar drove the offending vehicle and dashed against the minor appellant and she has clearly identified the person who caused the accident and also she has not mentioned the name and number of the two wheeler. The father of the appellant (P.W.1) also deposed before the Tribunal that one Sathish, S/o.Soundarapandi Vadhiyar drove the offending vehicle and caused accident. It is also found that the said Sathish was not having valid driving licence at the time of accident and the vehicle has no insurance coverage. Hence, the Tribunal dismissed the claim petition. I find no reason to interfere with the conclusion reached by the Tribunal. This appeal has no merit.



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9.For the foregoing reasons, the Civil Miscellaneous Appeal fails

and the same is dismissed. No costs.

08.09.2022

Index :Yes/No

Internet :Yes/No

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To

1.The Motor Accidents Claims Tribunal,
(Additional District Judge), (Fast Track Court-II), Madurai.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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A.A.NAKKIRAN,J.

cp

JUDGMENT MADE IN
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