

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 02.03.2022

CORAM :**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN****C.M.A. (MD) .No.821 of 2021**

V.LAKSHIYA MAGANTHA ... Appellant/Petitioner

Vs

1 K.VANCHINATHAN

2 The Branch Manager
M/s. United India Insurance Company Limited,
254, Good Shed Street,
Madurai. ... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the award passed in M.C.O.P.No.1259 of 2005, dated 23.12.2020, by the Sub Court (Motor Accident Claims Tribunal), Melur.

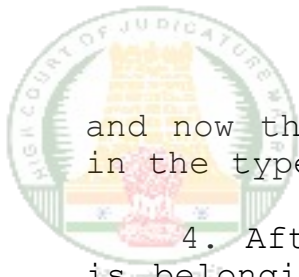
For Appellant : Mr.B.A.Muruganantham
For R1 : Mr.Sivasudhan
For R2 : Mr.J.S.Murali

J U D G M E N T

The Civil Miscellaneous Appeal has been filed by the claim petitioner against the award passed by the Sub Court (Motor Accident Claims Tribunal), Melur in M.C.O.P.No.1259 of 2005, dated 23.12.2020.

2. The unsuccessful claim petitioner is the appellant herein. She filed M.C.O.P.No.1259 of 2005 before the Sub Court (Motor Accident Claims Tribunal), Melur, claiming compensation of Rs.2,00,000/-, alleging that she sustained injury in the road accident and the owner of the vehicle is none other than her husband. The Insurance Company is arrayed as the second respondent. Both the respondents remained ex-parte before the Tribunal. She has not filed any R.C.Book or copy of the Insurance before the Tribunal and hence, the Tribunal has dismissed the M.C.O.P.No.1259 of 2005. Aggrieved over the same, the present Civil Miscellaneous Appeal has been filed.

3. The learned counsel appearing for the appellant/claim petitioner would contend that at the time of filing of the M.C.O.P.No.1259 of 2005, the husband and wife are living separately



and now they filed the copy of the R.C.Book and the Bike Insurance in the typed set of papers.

4. After perusing the records, I find that whether the vehicle is belonging to the first respondent and the same is insured with the second respondent has to be gone into by the Tribunal. Since these documents are not filed before the Tribunal, the claim petition has been rejected. At the time of accident, the claim petitioner was aged about 19 years. The accident has taken place on 29.01.2005 and she has taken treatment in Meenakshi Mission Hospital, Madurai and subsequently, at Jawahar Hospital and she was also in-patient for some time. Hence, an opportunity has to be given to the parties. Since these two documents are not filed before the Tribunal for consideration and also the respondents are not filed any counter statement before the Tribunal, in the interest of justice, the following order is passed.

5. The Civil Miscellaneous Appeal is allowed and the award passed by the Sub Court (Motor Accident Claims Tribunal), Melur in M.C.O.P.No.1259 of 2005, dated 23.12.2020, is set aside and the matter is remitted back to the Sub Court, (Motor Accident Claims Tribunal), Melur for reconsideration and the Tribunal is directed to take up the M.C.O.P.No.1259 of 2005 on file. If the respondents want to file counter, they are directed to file counter within a period of six weeks from the first hearing date and thereafter the Tribunal is directed to dispose of the M.C.O.P.No.1259 of 2005 within a period of twelve weeks. It is open to the second respondent/Insurance Company to file necessary application, if so advised. It is also open to the second respondent/Insurance Company to take all such pleadings available in accordance with law. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

akv

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.



TO

1. The Subordinate Judge,
The Motor Accident Claims Tribunal
Melur

2. The Branch Manager,
M/S.United India Insurance Company Limited,
254, Goods Shed Street,
Madurai.

Copy to

The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court, Madurai - 2 Copies

+1 CC to M/s.B.A.MURUGANANTHAM, Advocate (SR-9527 /2022)

+1 CC to M/s.J.S.MURALI, Advocate (SR-9660 dated /2022)

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SRR (CO)
KB (23.03.2022) 3P 7C