



C.M.A.No.2931 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on :10.01.2023

Judgment Pronounced on :30.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

**C.M.A.No.2931 of 2021**

N.Palanisamy

... Appellant

vs.

1.K.Ganesamoorthy  
2.K.Balasubramani  
3.The Reliance General Insurance Company Limited,  
2nd Floor, Pla Kanagu Towers,  
15A, II-Cross,  
Thillai Nagar,  
Main Road, Trichy Taluk,  
Trichy District.

...Respondents

**PRAYER:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decretal order dated 11.03.2021 passed in M.C.O.P.No.54 of 2016 on the file of the IVth Additional District and Sessions Judge, Erode at Bhavani.

For Appellant :Mr.I.C.Vasudevan

For R1&R2 :No appearance

For R3 :Mrs.C.Bhuvana sundari



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## J U D G M E N T

The claimant has filed this appeal seeking enhancement of compensation for the award in M.C.O.P.No.54 of 2016 on the file of the IVth Additional District and Sessions Judge, Erode at Bhavani.

2. Heard the learned counsel for the appellant and the respondents.

3. The Tribunal has awarded a sum of Rs.25,000/- towards the injury. The claim petitioner was examined as P.W.1 before the Tribunal.

4. As per his version, while he was riding the bike having Registration No. TN 38 BK 9121 on Coimbatore-Avinashi Main Road towards East to West, when the petitioner was nearing opposite of Old Rani Lakshmi Mill, another two wheeler from the behind having Registration No. TN 39 BR 2801 dashed the vehicle from behind, when he tried to overtake petitioner's vehicle, thereby it has caused the accident.

5. It is the specific evidence of P.W.2, the alleged eye witness to the occurrence, that the vehicle driven by the injured was proceeding in



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the front. The vehicle driven by the first respondent was coming from behind. In the process, the rider of the first respondent's vehicle was trying to overtake the petitioner's vehicle and it is the specific evidence of P.W.2 that on noticing another vehicle coming from the opposite side, he dashed against the claim petitioner's vehicle, thereby causing the accident. Ex.X1 is the Rough Sketch.

6. It remains to be stated that the manner of the accident as spoken to by P.W.1, runs contrary to that of P.W.2. At this juncture, it is relevant to see Ex.P-2 Discharge summary that as per the rough sketch Ex. X1 document, it is shown that the vehicle was driven in a four track road. Furthermore, PW1 never deposed that a vehicle came from the opposite direction at the time of occurrence.

7. Therefore, based upon a rough sketch Ex.X1, it appears that the Tribunal has come to the conclusion that both P.W.1 and P.W.2 are not speaking truth and accordingly it was held that their version is unbelievable and unacceptable.

8. After perusing the Ex.P1 F.I.R, it is noted that the petitioner's vehicle was hit by another vehicle TN 39 BR 2801 from behind. P.W.1 has



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admitted in the cross-examination that the front portion of his two wheeler caused damage due to the accident. So also, Ex.X1 Motor Vehicle Report proves the same. Therefore, the Tribunal has rightly come to the conclusion that if the vehicle bearing Registration No.TN 39 BR 2801 belongs to the second respondent which had hit the petitioner's vehicle from behind the petitioner motor-cycle and it has got damaged only on the rear side.

9. On the contrary, as admitted by P.W.1, the damage was in the front portion of the petitioner's vehicle. The Tribunal has accepted the closure report filed by the police, which stated that only because of the negligence on the part of the petitioner/ claimant, the accident has taken place.

10. After going through the evidence of P.W.1 and P.W.2 and admission of P.W.1 in the cross-examination as referred to above and also on perusing Ex.X1 Rough sketch and the Motor Vehicle Inspector's report, the finding rendered by the Tribunal does not suffer from any illegality or irregularity warranting interference. Therefore, the finding of the Tribunal that the claim petitioner is a tortfeasor and that he cannot claim damages for his own vehicle and as it is the case of No fault



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liability, the compensation of Rs.25,000/- for the injury has been rightly awarded by the Tribunal. Hence, I do not find any error or illegality or irregularity warranting interference.

11.Accordingly, this Civil Miscellaneous Appeal is dismissed.

No Costs.

30.01.2023

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Index : Yes / No  
Speaking Order : Yes / No  
Neutral Citation : Yes / No

To

1. The Motor Accident Claims Tribunal,  
IVth Additional District and Sessions Judge, Erode at Bhavani.
2. The Section Officer,  
V.R.Section,  
High Court of Madras,  
Chennai.



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**RMT.TEEKAA RAMAN, J.,**

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**Judgment in**  
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30.01.2023