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C.M.A.No.1997 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1997 of 2020

Ramesh

... Appellant

Vs.

1.Anandhavelu

2.Shriram General Insurance Company Ltd.,
Rep. by its Branch manager,
Having office at
No.E-8, RHCO, Sitapura,
Jaipur, Rajasthan.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow this appeal and to allow the claim in M.C.O.P.No.159 of 2015 dated 10.01.2020 on the file of Motor Accidents Claims Tribunal, (District Judge), Karaikal.

For Appellant : Mr.K.Varadhakamaraj
For Respondents : R1 – No Appearance
Mr.K.Poomalai for R2

J U D G M E N T

This appeal has been filed seeking to set aside the judgment and decree dated 10.01.2020 passed by the Motor Accidents Claims



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Tribunal, (District Judge), Karaikal, in M.C.O.P. No.159 of 2015.

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2.The brief facts of the case is that on 27.06.2014 at about 10.00p.m., the appellant was riding the motor cycle Bajaj Discover bearing Registration No.PY-02-N-2660 with a pillion rider at Neravy No.1 Salai at Neravy near 7th Day Adventist School from West to East. At that time two two wheelers bearing Registration Nos.PY02-F-0313 and PY02-E-8275 came one after another from the opposite direction in a rash and negligent manner and hit the motorcycle driven by the appellant, due to which, the appellant sustained injuries.

3.Thereafter, the injured claimant/ appellant filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.40 Lakhs. After adjudication, the Motor Accidents Claims Tribunal rejected the claim petition. Aggrieved by the same, the appellant claimant has filed this appeal.

4.The learned counsel appearing for the appellant submitted that that the appellant was riding the motor cycle owned by the first respondent and the same was insured with the second respondent Insurance Company. Since the offending vehicle was not insured



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any of the Insurance Company, the appellant did not implead the owner of the offending vehicle and impleaded the owner of the vehicle driven by him, however, the Tribunal rejected the claim petition.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the appellant is the borrower of the two wheeler and he filed claim petition as against the owner of the two wheeler driven by him and not against the third party and hence, he is not entitled for compensation either under Section 166 or under Section 163 A of the Motor Vehicles Act and hence, the Tribunal rejected the claim petition, which warrants no interference.

6.Heard the learned counsel appearing for the appellant claimant and the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.

7.The accident and the manner in which the accident happened



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are not disputed. Admittedly, the appellant is the borrower of the two wheeler and he filed claim petition as against the owner of the two wheeler driven by him and the appellant is not a third party and hence, he is

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not entitled for compensation either under Section 166 or under Section 163 A of the Motor Vehicles Act and hence the Tribunal rightly rejected the claim petition, which warrants no interference.

8.The civil miscellaneous appeal is dismissed. The judgment and decree passed in M.C.O.P.No.159 of 2015 dated 10.01.2020 by the Motor Accidents Claims Tribunal, (District Judge), Karaikal, is confirmed. No costs.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal, (District Judge), Karaikal.

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