



C.M.A.No.818 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.818 of 2021

And

C.M.P.No.4769 of 2021

National Insurance Company Ltd.,
Represented by its manager,
Anuradha Complex,
3rd Floor, Opposite Raja Theatre,
Bangalore Road,
Krishnagiri.

... Appellant

Vs.

1.Arunkumar
2.Govindaraj

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment passed in MACT.O.P.No.672 of 2017 dated 24.10.2018 on the file of the Motor Vehicle Accidents Claims Tribunal, Special Sub Court, Krishnagiri.

For Appellant : Mr.N.B.Sureka

For Respondents : Mr.M.Sathish Kumar
for M/s.C.Kannadasan
R2 – No Appearance



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J U D G M E N T

The second respondent before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has been filed against the judgment and decree dated 24.10.2018 passed by the Motor Vehicles Accidents Claims Tribunal, Special Sub Court, Krishnagiri, in M.C.O.P.No.672 of 2017.

2.The learned counsel appearing for the appellant submitted that the first respondent claimant filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.5 Lakhs alleging that on 11.01.2014 at about 20.30 hours, the first respondent travelled as pillion rider in the Hero Honda Splendor bearing Registration No.TN-24-R-1382 driven by one Govindaraj/ second respondent in Kaveripattinam to Malayandahalli Road in front of one Venkatraman House and due to the rash and negligent driving of the second respondent, the motorcycle lost the control and dashed against another Hero Honda Splendor bearing Registration No.TN.24.C.6058, due to which, the first respondent sustained injuries and after adjudication, the Tribunal awarded a sum of Rs.2,29,000/- as compensation to the claimant along with interest at



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date of petition till the date of realization and proportionate cost and directed that the second respondent and appellant are jointly and severally liable to pay the compensation amount.

3.The learned counsel appearing for the appellant further submitted that first respondent was the pillion rider of the vehicle insured with the appellant and he filed complaint before the law enforcing agency as against the owner of the vehicle bearing Registration No.TN.24.C.6058, however, filed claim petition as against the second respondent and appellant, contrary to F.I.R. which was registered at the instance of the first respondent. The contrary stand taken by the first respondent was not properly adjudicated by the Tribunal and hence, fastening the liability as against the appellant is not sustainable one.

4.The learned counsel appearing for the appellant further submitted that during the pendency of the appeal, the first respondent withdrawn the entire amount. Hence, this Court may grant liberty to the appellant to raise dispute as against the owner or



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Insurance Company of the vehicle bearing Registration
No.TN.24.C.6058.

5.In view of the limited relief now sought for by the learned counsel appearing for the appellant, this Court, without interfering with the judgment and decree impugned herein, grants liberty to the appellant to work out the remedy in the manner known to law.

6.The civil miscellaneous appeal is dismissed. The judgment and decree dated 24.10.2018 passed by the Motor Vehicles Accidents Claims Tribunal, Special Sub Court, Krishnagiri, in M.C.O.P.No.672 of 2017, is accordingly confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

19.12.2023

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

To

1.The Vehicles Motor Accidents Claims Tribunal,
Special Sub Court, Krishnagiri.

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M.DHANDAPANI,J.
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