



C.M.A.(MD)No.217 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.217 of 2023

Suresh

... Appellant / Petitioner

Vs.

1.Ramesh

2.The New India Insurance Company Ltd.,
Through its Branch Manager,
Tenkasi Road,
Rajapalayam Town,
Virudhunagar District.

.. Respondents / Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No. 42 of 2019, dated 20.09.2022 on the file of the Motor Accident Claims Tribunal / Principal Sub Court, Srivilliputtur.

For Appellant

: Mr.T.Arun Ganesh

For Respondents

: Mr.C.Karthik for R2

No Appearance for R1



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JUDGMENT

Challenging the judgment and decree passed by the Motor Accident Claims Tribunal / Principal Sub Court, Srivilliputtur, in M.C.O.P.No.42 of 2019, dated 20.09.2022, the claimant has filed this Civil Miscellaneous Appeal.

2. For the sake of convenience, the parties are referred to herein, as per their own ranking before the Tribunal.

3. The brief facts, leading to the filing of this Civil Miscellaneous Appeal, are as follows:-

The petitioner on 12.08.2018, while travelling in an auto at 7.15 p.m., a Ford Icon Car, bearing Registration No.TN-67-P-9823 came from the opposite direction and dashed against the Auto and as a result, the claimant sustained head injuries and also cut injury on the right knee and abrasion on the forehead. Therefore, he claimed compensation for the injuries sustained by him.

4. Before the Tribunal, the 2nd respondent Insurance Company has taken a stand that the accident had occurred due to the rash and negligent driving of the



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petitioner and therefore, the 2nd respondent Insurance Company is not liable to pay the compensation.

5. Before the Tribunal, on the side of the petitioner, one witness was examined as P.W.1 and 10 documents were marked as Ex.P1 to Ex.P10. On the side of the respondents, no witness was examined and no evidence has been marked.

6. The Tribunal, after analysing the entire evidence, particularly considering the fact that the injuries sustained by the petitioner are only simple injuries, has awarded a sum of Rs.37,085/- as compensation. However, the trial Court rejected Ex.P5-Bills filed by the petitioner to prove the damages to the Auto. Challenging the same, the present appeal came to be filed.

7. It is the contention of the petitioner that Ex.P5 are the bills issued by the workshop towards the repairing charges. According to the petitioner, he has spent about Rs.52,450/- for repairing the Auto. However, the Tribunal rejected the same and has not awarded any amount towards damages to the Auto. Hence, the judgment of the tribunal warrants interference.



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8. Heard the learned counsel appearing on either side and perused the materials available on record.

9. On a perusal of the entire receipts, which were filed as Ex.P5, it is seen that though the bills said to have been issued by Sri Visvakarma Tinger Works, the signature of the owner of the Auto is not found in the bills. Besides the person, who issued the bill has also not been examined before the Tribunal. Further, no documents whatsoever has been filed to show the damages suffered to the vehicle and the person who issued the receipts has also not been examined to prove the so called payment. Accordingly, the findings of the Tribunal rejecting Ex.B5-bill does not require any interference.

10. Therefore, this Court does not find any merits in this appeal. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs.

06.04.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

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To

- 1.The Motor Accident Claims Tribunal / Principal Sub Court,
Srivilliputtur.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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N.SATHISH KUMAR, J.

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