



C.M.A.(MD)No.605 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.M.A.(MD)No.605 of 2021

Kanthaperumal

...Appellant/claimant

Vs.

The Branch Manager,
Reliance General Insurance Company Ltd.,
Door No.10/4/4, 2nd Floor,
Thahaplaza, Southway Road,
Vannarapettai,
Tirunelveli.

...Respondent/Respondent

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 (1) of the Motor Vehicles Act, to set aside the judgment dated 24.11.2020 passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate (FAC), Tirunelveli in M.C.O.P.No.128 of 2016 and award compensation as prayed for in the claim application.

For Appellants : Mr.T.Lenin Kumar

For Respondent : Mr.V.Sakthivel

JUDGMENT

This Civil Miscellaneous Appeal is filed challenging dismissal of the claim petition in M.C.O.P.No.128 of 2016 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate (FAC), Tirunelveli.



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2.The claim petition was filed by the appellant for the death of his mother in a road accident claiming a sum of Rs.10,00,000/- as compensation. It is stated in the claim petition that on 09.09.2015 at about 06.30 a.m., the appellant was riding his bike bearing Registration No.TN-72-BB-5249 in Sivalaperi-Palayamkottai Main Road near Kombanthanoor Amman Temple having his mother as pillion rider. At that time, the accident had happened. As a result, the mother of the appellant sustained injuries and died.

3.The learned counsel for the respondent opposed the claim petition stating that the appellant himself is responsible for the accident. A criminal case was also registered against the appellant. Having caused the death of his mother in the accident by riding a two wheeler in a rash and negligent manner, the appellant cannot claim compensation for the death of his mother in a road accident.

4.Before the tribunal, during enquiry on the side of the claimant P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P6 were marked. On the side of the respondents R.W.1 was examined and no documentary evidence was marked.



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5.The tribunal on going through the oral and documentary evidence on record dismissed the claim petition stating that the appellant himself is the owner, rider, tortfeasor and also claimant, which is not permissible under law. The Tribunal also relied upon the judgment of this Court in the case of ***Branch Manager, United India Insurance Co.Ltd., vs. Gnanasigamony and 6 others*** [2019(1)TN MAC 423], in which it has been held that the owner himself cannot be a recipient of compensation as the liability to pay compensation is on him. Challenging the dismissal of the claim petition, this appeal has been filed.

6.Heard the submissions of the learned counsel on either side and perused the materials placed on record.

7.Reading of the entire award passed by the Tribunal and also considering the fact and circumstances of the case, this Court is of the view that there is no reason to take a different view that was taken by the Tribunal in the well reasoned award. Accordingly, this Civil Miscellaneous Appeal is **dismissed**.

8.At this juncture, the learned counsel for the appellant made a submission that the appellant has one brother and requested to grant liberty to the



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brother of the appellant to file the claim petition seeking compensation for the death of his mother in the accident.

9.The said request was opposed by the learned counsel for the respondent stating that there was no limitation for filing claim petition before the Act 32 of 2019, Motor Vehicles Amendment Act, 2019 came into force on 01.04.2022.

10.Admittedly, the accident in this case had happened on 09.09.2015. That being the position, there is no question of granting liberty to the brother of the appellant to file a claim petition. The brother of the appellant is always entitled to seek appropriate remedy by filing necessary petition before the competent Court in the manner known to law. No costs.

15.12.2023

NCC : Yes / No
Index : Yes/No
Internet : Yes/No
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To

- 1.The Motor Accident Claims Tribunal,
Chief Judicial Magistrate (FAC), Tirunelveli
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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G.CHANDRASEKHARAN, J.

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