



C.M.A.(MD)No.800 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.800 of 2021

and

C.M.P.(MD)Nos.7498 of 2021 and 3492 of 2023

Rev.M.Eckarimens Michel

...Appellant/3rd Respondent

Vs.

...1st Respondent/Petitioner

1.Paul Raj

2.Vijayakumar

3.P.Wilson

...Respondents 2 & 3/
Respondents 1 & 2

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the fair and decreetal order passed by the Motor Accident Claims Tribunal / Sub Court, Padmanabhapuram in M.C.O.P.No.64 of 2012 dated 17.07.2018.

For Appellant	: Mr.M.R.Sreenivasan
For R1	: Mr.R.Joseph Thangaraj
For R3	: Mr.R.Subramanian
	for Mr.M.Saravanan

JUDGMENT

This Civil Miscellaneous Appeal is filed challenging the award passed by the Motor Accident Claims Tribunal in M.C.O.P.No.64 of 2012 dated 17.07.2018.



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

3.The brief facts, leading to the filing of the claim petition, are as follows:-

(i)When the claimant was walking with his bicycle keeping extreme left side of the road, the driver of the vehicle bearing Registration No.TN-74-Z-1636 had driven the vehicle in a rash and negligent manner dashed against the claimant, as a result, he sustained grievous injuries and fracture in his hip.

(ii)Originally, the second petitioner was shown as owner of the vehicle. Thereafter, the third respondent was impleaded as the owner of the vehicle.

(iii) The stand taken by the second respondent was that he was not the owner of the vehicle at the time of accident. He had purchased the vehicle only on 13.08.2011 from the third respondent and the name had been transferred only on 18.08.2011.

4.Before the tribunal, on the side of the claimants P.W.1 was examined and Ex.P1 to Ex.P15 were marked. On the side of the respondents R.W.1 and R.W.2 were examined and Ex.R1 to Ex.R4 were marked.



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5.The tribunal, after considering stand of the second respondent that he was not a registered owner at the date of accident and also considering the fact that the name of the third respondent was in the registration certificate, fastened the liability on the appellant/third respondent and the awarded the compensation, since the vehicle did not have a valid Insurance Policy. Challenging the same, the present appeal had been filed by the Insurance Company.

6.The main contention of the learned counsel for the appellant is that he had sold the vehicle to the second respondent long back and even at the time of registration of FIR, only the second respondent was shown as the owner of the offending vehicle and final report was also filed indicating the the second respondent was the owner of the property. The Motor Vehicles Inspector report also shows that the second respondent was the owner of the property at the time of accident and hence, appellant is not liable to pay the compensation.

7.The learned counsel for the third respondent herein would submit that the vehicle had been transferred to the appellant on 18.08.2011 after the accident. After such transfer, the vehicle had been produced before the Motor Vehicles Inspector for inspection and hence, the name of the appellant had been mentioned as owner of the vehicle in the Registration Certificate. On the date of accident, the



third respondent was not the owner of the vehicle and the vehicle has been sold to the appellant only subsequent to the accident.

8.In the light of the above submissions, now the point arises for consideration in this appeal is:

(1)Whether the Tribunal is right in fixing the liability on the appellant and directing the appellant to pay a sum of Rs.1,40,000/-?

9.It is not in dispute that the accident had taken place on 06.08.2011, due to which the claimant sustained injuries. The only contention raised by the appellant before this Court is that he had transferred the vehicle to the third respondent. It is relevant to note that despite the appellant was made as one of the respondents, he remained ex-parte before the Tribunal. He never put forth any of his contentions before the Tribunal.

10.Be that as it may, the vehicle had been legally transferred in the name of the third respondent only on 18.08.2011, whereas the accident had taken place on 06.08.2011. Therefore, as per Section 30 (2) of the Motor Vehicles Act, the owner is the person, whose name is appeared in the Registration Certificate. That apart, even assuming that any transfer had taken place, it is the duty to the



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transferrer to intimate the same to the concerned Regional Transport Officer within a period of ten days from the date of transfer as contemplated under Section 50 (1) of the Motor Vehicles Act. However, no such intimation had been given.

11. Without following the procedure contemplated under law, merely on the basis of oral submission, the appellant cannot contend that the vehicle had been transferred prior to the accident to the third respondent. The Hon'ble Supreme Court in the case of Naveen Kumar vs. Vijay Kumar and others [(2018) 3 SCC], had held that where the registered owner has purported to transfer the vehicle but continues to be reflected in the records of the Registering Authority as the owner of the vehicle he would not stand absolved of liability.

12. In view of the above, I do not find any merits in this appeal and accordingly, this Civil Miscellaneous Appeal is dismissed.

13. The Appellant is directed to deposit the compensation amount as awarded by the Tribunal with interest and costs to the credit of M.C.O.P.No.64 of 2012, on the file of the Motor Accident Claims Tribunal /Sub Court, Padmanabhapuram within a period of six weeks from the date of receipt of a copy of this judgment, less the amount, if any already deposited. On such deposit, the claimant is permitted to withdraw the same, less the amount if any already



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withdrawn, by making necessary application before the Tribunal. No costs.

Consequently, connected miscellaneous petitions are closed.

12.04.2023

NCC : Yes / No

Index : Yes/No

Internet : Yes/No

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To

1.The Motor Accident Claims Tribunal
Sub Court, Padmanaphapuram.

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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