



C.M.A.(MD)No.939 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.10.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.939 of 2014

National Insurance Company Limited,
Dr.Nanjappa Road,
Coimbatore.

... Appellant

Vs.

1.Peratchi

2.M/s.Cape Electric Corporation,
134, Amman Kulam Cross,
Avinasi Road,
Coimbatore.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, against the judgment and decree dated 14.03.2012 made in M.C.O.P.No.336 of 2009 on the file of the Motor Accident Claims Tribunal/Principal Sub-Court, Tenkasi.

For Appellant : Mr.A.Ilango

For R-1 : Mr.R.J.Karthick

For R-2 : No appearance



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JUDGMENT

This Civil Miscellaneous Appeal filed against the judgment and decree dated 14.03.2012 made in M.C.O.P.No.336 of 2009 on the file of the Motor Accident Claims Tribunal/Principal Sub-Court, Tenkasi.

2. Heard the learned Counsel appearing for the appellant and the learned Counsel appearing for the first respondent and perused the materials available on record. No representation for the second respondent.

3. The appellant is the Insurance Company. The accident happened between two two-wheelers. The vehicle involved in the accident was driven by the first respondent and the same belongs to the second respondent. The first respondent is the employee of the second respondent. At the time of driving, the wheel of the two-wheeler got punched, as a result of which, it hit against another two-wheeler and the first respondent got injured.



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4. The learned Counsel appearing for the appellant submitted that despite the fact that negligence was on the part of the first respondent, the first respondent filed an application before the Tribunal under Section 166 of the Motor Vehicles Act, 1989. The learned Tribunal has passed an award amount of Rs.60,480/- (Rupees Sixty Thousand Four Hundred and Eighty only), without any basis invoking Section 3 of the Workmen Compensation Act, 1923. The learned Counsel appearing for the appellant further submitted that Section 3 of the Workmen Compensation Act, 1923 is not applicable and on that basis the learned Tribunal ought to have dismissed the petition and pressed for allowing the appeal.

5. Per contra, the learned Counsel appearing for the first respondent submitted that the award passed by the learned Tribunal is need not be interfered and pressed for dismissing the appeal.

6. In view of the rival submissions from both sides, this Court is of the considered opinion that in a case of Motor Accidents Claims filed under Section 166 of the Motor Vehicles Act, 1989, a relief cannot be



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granted invoking the provisions of Workmen's Compensation Act, 1923.

Hence, it is necessary to set aside the award passed by the learned Tribunal, Tenkasi, in M.C.O.P.No.336 of 2009 dated 14.03.2012. The first respondent is at liberty to file an application seeking remedy under the Workmen Compensation Act, 1923 before the appropriate forum.

7. With these observations and directions, this Civil Miscellaneous Appeal is allowed. There shall be no order as to costs.

19.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

The Motor Accident Claims Tribunal
/Principal Sub-Court,
Tenkasi.

Copy to

The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

Sml

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