



C.M.A.(MD).No.1371 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1371 of 2015

and

M.P(MD) No.2 of 2015

The Registrar (Administration)
Madurai Bench of Madras High Court,
Madurai – 625 023.

..... Appellant/Respondent No.1

-vs-

1. Selvaraj

.... Respondent No.1/ Petitioner

2. The State of Tamil Nadu,
Represented by its Home Secretary,
Secretariat,
Chennai – 600 009.

.... Respondent No. 2 /Respondent No.2

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award passed in M.C.O.P.No.111 of 2012, dated 17.04.2014, on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Karur.

For Appellant : Mr.T.S.Mohamed Mohideen

For Respondents : Mr.D.Kirubakaran – For R1
: Mr.N.G.A.Natraj– For R2



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Government Advocate

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J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the first respondent in claim petition in M.C.O.P.No.111 of 2012, on the file of the Motor Accidents Claims Tribunal/ Chief Judicial Magistrate Court, Karur.

2. According to the claimant he was riding a Motor Bike and when he reached Valayapatty diversion road on Madurai to Salem NH-7 road and stationed his vehicle on the extreme left side and he was answering natural call, the Ambassador car bearing registration No.TN-59-G-0698 belonging to the appellant was driven by its duty driver and it came in a rash and negligent manner dashed against the petitioner and resulted in an accident.

3. According to the claimant, he had sustained grievous injuries and he was admitted to Dr.G.C.Hospital, Karur and he was an inpatient from 19.04.2008 to 02.05.2008. He had claimed compensation of a sum of Rs.7,00,000/- (Rupees Seven Lakhs only)



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4. The first respondent in the claim petition who is the appellant herein had filed a counter contending that the claimant had driven the Motor Vehicle without observing the traffic Rules and he had dashed against the four wheeler which was proceeding in the National High Ways. Therefore, according to the appellant they were not liable to pay any compensation much less a sum of Rs.7,00,000/- (Rupees Seven Laksh only). The appellant had further contended that the second respondent is the owner of the vehicle and there is no insurance coverage and hence, the second respondent alone is liable to pay the compensation, if any award passed.

5. The Tribunal after considering the oral and documentary evidence has arrived at a finding that the Ambassador Car bearing Registration No.TN-59-G-0698 was involved in the said accident. Further came to a conclusion that the claimant was driving the Motor Vehicle from an inner road and was approaching the main road, in which, the Ambassador Car was proceeding. Therefore, the Ambassador Car driver should have been more careful when he crossed the road. The Tribunal further found that the bike rider was also negligent, on his part, in not taking enough caution before



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entering the main road. Based upon the said findings, the Tribunal had arrived at a finding that the quantum of compensation of Rs.2,41,286/- (Rupees Two Lakhs Forty One Thousand Two Hundred and Eighty Six only) is fixed and deducted 50% towards contributory negligence of the claimant and finally arrived at a conclusion that the claim amount is Rs.1,20,643/- (Rupees One Lakh Twenty Thousand Six Hundred and Forty Three only). This award is under challenge by the first respondent in the claim petition.

6. According to the appellant, the first respondent who is the claimant was travelling from the branch road and approaching the major road, therefore, only the claimant is duty bound to be more careful in entering into the main road. The driver of the four wheeler viz., Ambassador Car, which was driven in the National High ways, did not expect the branch road. Therefore, the Tribunal was in error in fixing Rs.50% of the liability upon the first respondent in the claim petition. The learned counsel for the appellant had further contended that the Tribunal was carried away by the averments in the FIR. He further pointed out that the rough sketch under Ex.P.3 was not properly considered by the Tribunal, it clearly discloses that the claimant alone was fully responsible for the accident and the driver of the Ambassador



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Car was nowhere responsible for the said accident. Therefore, the learned counsel for the appellant had further pointed out that the quantum has not been properly calculated and it is excessive.

7. Per contra, the learned counsel appearing for the first respondent/claimant had contended that they have parked the vehicle on the mud road and they were attending natural call. At that point of time, the Ambassador Car that was driven in the national high ways, dashed against the claimant and another person and it resulted in the accident. Therefore, the driver of the Ambassador car or the owner of the Ambassador Car can never be exonerated from the liability to pay the compensation. Hence, he prayed for sustaining the award passed by the Tribunal.

8. I have carefully considered the submissions made by the learned counsel on either side and perused the records.

9. Admittedly, the claimant was travelling in a two wheeler in a branch road and he was approaching the National Highways. At that time of approaching the national high ways, the Ambassador Car belonging to the



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first respondent in the claim petition had dashed against the Motor Bike and has resulted in the accident. Therefore, only the claimant, who is proceeding in the minor road to reach the national highways, should have been more careful in approaching the major road. Therefore, this Court does not find any illegality or infirmity in the award of the Tribunal for deducting 50% towards contributory negligence. The learned counsel appearing for the appellant had pointed out that the driver of Ambassador Car was driving the vehicle in the national highways with due care and caution. However, this Court is not accepting the said submissions.

10. In view of the fact that at the time of accident, the Motor bike was on the mud road and the claimant was only attempting to enter into the national highways, it is clear that the vehicle belonging to the appellant was also negligent in causing the said accident by dashing against the vehicle which was on the mud road. Therefore, the Tribunal was right fixing the liability on the claimant as well as on the appellant.



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11. This Court does not find that the quantum of award is excessive or unreasonable. In view of the above said facts, this Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

16.03.2023

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

1. The Home Secretary,
Secretariat,
Chennai – 600 009.
2. The Motor Accidents Claims Tribunal/
Chief Judicial Magistrate Court,
Karur.
3. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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