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Civil Miscellaneous Appeal No.246 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20/11/2024

C O R A M

THE HONOURABLE Mr.JUSTICE **M.DHANDAPANI**

Civil Miscellaneous Appeal No.246 of 2020

a n d

C.M.P.No.1769 of 2020

1. IFFCO-Tokio General Insurance Co Ltd
128, 4th Floor, Iffco Bhavan
Habibullah Road, T. Nagar
Chennai.

2. The Branch Manager
Iffco-Tokio General Insurance Co Ltd
100 feet Road, Mudaliarpet
Pondicherry.

...

Appellants

Vs

1. Vijayakumar

2. Thirumurugan

...

Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 20/8/2019 passed in M.C.O.P.No.58 of 2016 on the file of the learned Motor Accidents Claims Tribunal (II Additional District & Sessions Judge), Chidambaram.



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Civil Miscellaneous Appeal No.246 of 2020

For appellant	...	Mr.N.Somasundaar
For respondents	...	Mr.G.D.Senthilvel for R.1 For R.2 – Disd vide, order dated 12/4/2024

J U D G M E N T

This Civil Miscellaneous Appeal is focussed as against the decree and judgment dated 20/8/2019 passed in M.C.O.P.No.58 of 2016 on the file of the learned Motor Accidents Claims Tribunal (II Additional District & Sessions Judge), Chidambaram.

2. The nitty-gritty of the grounds of Appeal as stood exposed from the records would run thus:-

The first respondent is the owner of the vehicle bearing Registration No.TN-31-AK-4960 Maruti Swift was driven by him from Mysore to Bangalore in B.M.road west to East SH Salai, met with an accident, thereby, vehicle was fully damaged and due to the loss suffered on account of the accident, claiming compensation of Rs.1,50,000/-, the claimant had filed the claim petition in M.C.O.P.No.58 of 2016 before the Motor Accidents Claims Tribunal (II Additional District & Sessions Judge), Chidambaram.



3. Before the Tribunal, in order to prove the case, on the side of the claimants, two witnesses were examined as P.Ws.1 and 2 and marked Exs.P.1 to P.8. On the side of the respondents, one witness was examined as R.W.1 and marked Exs.R.R.1 to 4.

4. After analyzing the oral and documentary evidences, the Tribunal has awarded a sum of Rs.50,000/- as compensation and directed the appellants jointly to pay the compensation.

5. Not being satisfied with the quantum of compensation awarded by the Tribunal, appellant has come forward with this appeal before this Court.

6. Heard Mr.N.Somasundar, learned counsel for the appellants Insurance Company and Mr.G.D.Senthilvel, learned counsel for the second respondent.

7. On 12/4/2024, the learned counsel appearing for the appellants made an endorsement in the Court bundle to the effect that they are not pressing this appeal as against the second respondent. Accordingly, this appeal was dismissed as not pressed as against the second respondent.



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8. The point that arises for consideration in this Appeal is

“Whether the M.C.O.P filed by the first respondent/petitioner claiming compensation was tenable at all in view of Section 165 of the Motor Vehicles Act?”

9. The learned counsel appearing for the appellant Insurance Company submitted that in view of Section 165 of the Motor Vehicles Act, the very M.C.O.P itself was not tenable as the insured cannot claim damages before the Motor Accidents Claims Tribunal.

10. At this juncture, it is relevant to extract Section 165 of the Motor Vehicles Act.

“Claims Tribunal – (1) A State Government may, by notification in the Official Gazette, constitute one or more Motor Accidents Claims Tribunals (hereinafter in this Chapter referred to as Claims Tribunal) for such area as may be specified in the notification for the purpose of adjudicating upon claims for compensation in



respect of accidents involving the death of, or bodily injury to, persons arising out of the use of motor vehicles, or damages to any property of a third party so arising, or both.”

11. A bare reading of it would clearly demonstrate and indicate that the Tribunal has got no jurisdiction to decide the dispute between the insurer and the insured relating to damage caused to insured's property. Accordingly, the insured cannot claim compensation from his insurer and if at all, he is having any grievance, he is at liberty to approach the District forum concerned under the Consumer Protection Act or the Civil Court.

12. In the result, this Civil Miscellaneous Appeal is allowed. The first respondent is permitted to work out his remedy before the appropriate forum in the manner known to law, excluding the time taken for prosecuting the M.C.O.P as well as this Appeal. No costs.

20/11/2024

mvs.

Index : Yes / No

Neutral Citation: Yes/No



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Civil Miscellaneous Appeal No.246 of 2020

M.DHANDAPANI,J

mvs.

To

1. The Motor Accidents Claims Tribunal
(II Additional District & Sessions Judge),
Chidambaram.

C.M.A.No.246 of 2020

20/11/2024