



**C.M.A No.2277 of 2021**

**R. KALAIMATHI, J.**

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At the instance of the learned counsel appearing for the appellant, this matter is posted today under the caption “For Clarification”.

2. Heard the learned counsel for the appellant.

3. In view of the submission made by the learned counsel for the appellant, add the following sentence as last line in Para No.10 of the order of this court dated 30.01.2024:-

**“In this regard, the sole claimant herein has preferred C.M.A.No.2272 of 2021 and it was partly allowed.”**

4. The other contents of the order of this court dated 30.01.2024 shall stand unaltered.

**28.03.2024**  
(2/2)

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**Note:** Registry is directed to issue the fresh order copy, after carrying out the above corrections.



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C.M.A.No.2277 of



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**28.03.2024**

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C.M.A.No.2277 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2024

CORAM:

**HONOURABLE MRS. JUSTICE R.KALAIMATHI**

C.M.A.No.2277 of 2021

United India Insurance Co Ltd.  
Silingi Buildings,  
New No.134, Old No.40-45,  
Greens Road, Chennai - 600006.

.. Appellant

Versus

1. V.Pachaiyappan  
2. Sekar

.. Respondents

Prayer:- This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 16.09.2019 made in M.C.O.P.No.2142 of 2016 on the file of Motor Accident Claims Tribunal/Judge II, Court of Small Causes, MACT-Chennai.

For Appellant : Mr.P.Sankaranarayanan

For Respondents : Smt.Ramya V.Rao,

For R1.

R2 - No appearance.

**JUDGMENT**

Challenging the judgment and decree passed in M.C.O.P.No.2142 of 2016 dated 16.09.2019 on the file of the MACT/II Judge, Court of Small Causes, Chennai, the present appeal has been filed by the Insurance Company



as regards the liability issue.

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2. The claim petition was filed under Section 166 of the Motor Vehicles Act and Rule 3 of M.A.C.T Rules claiming a compensation of Rs.25,00,000/- for the injuries suffered by the claimant in a road accident.

3. The Tribunal after considering the evidence, has passed an award for a sum of Rs.6,52,900/- with interest at the rate of 7.5% per annum from the date of numbering of the petition i.e., 01.04.2016, till the date of realization. The Tribunal directed the 2<sup>nd</sup> respondent/Insurance Company to pay the said compensation on behalf of the first respondent/owner cum rider of the vehicle.

4. Mr.R.Sankara Narayanan, learned counsel appearing for the Appellant/Insurance Company would vehemently contend that the claimant has mentioned in the claim petition that the accident has occurred only due to rash and negligent riding of the rider of the Motorcycle, in which the claimant was riding as a pillion rider. FIR was lodged only against the rider of the other motorcycle. Therefore, the Insurance Company is liable to pay any compensation to the claimant.



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5. To buttress his arguments, in following judgment was referred.

6. The Hon'ble Supreme Court *in the case of Oriental Insurance Co.Ltd. Vs Premlatha Shukla and Others* in Civil Appeal No.2526 of 2007 held that F.I.R marked as an Exhibit and both parties intended to rely thereon. Once a part of it is relied upon by both the parties, the Tribunal cannot be said to have committed any illegality in relying upon the other part, irrespective of the contents of the document have been proved or not.

7. Per contra, Smt.Ramya V.Rao, learned counsel appearing for the respondents/claimants would strenuously contend that there is no contra evidence let in, by the Insurance Company for the evidence of P.W.1. Therefore, the Tribunal cannot be founded fault with for having relying upon the evidence of P.W.1.

8. At trial, the claimant examined himself as P.W.1 and Dr.Amarnath R.Sowlee and Dr.R.Rajappa have been examined as P.W.2 & P.W.3. Exs.P1 to



P16 were marked on the claimant's side.

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9. It is the evidence of P.W.1, that on 07.11.2015 at about 10.30 hrs, while he was riding as a pillion of Motor Cycle bearing Reg.No.TN-19-L-2754 along ECR Salai, opposite to Tamil Nadu Mercantile Bank, Pondicherry, the rider of the motorcycle drove it in a rash and negligent manner and hit on another motorcycle bearing No.PY-01-BY-1812 which came from Pondicherry to Chennai direction. In Ex.P1 - Copy of the F.I.R., it is stated that on 07.11.2015 at about 10.30 hours, while Pachaiyappan and Sekar were travelling in the two wheeler along ECR road towards Mahabalipuram. At the point of Tamil Nadu Mercantile Bank, a two wheeler bearing Reg.No.PY-01.BY.1812 came in a rash and negligent manner and hit on the claimant's two wheeler.

10. Though the learned counsel appearing for the appellant contended that in the F.I.R., it has been mentioned that the rider of the other two wheeler bearing Reg.No. PY-01-BY-1812 was on fault, there is no contra evidence let in by the Insurance Company to prove the same. F.I.R. is not a substantial piece of evidence. At the best, it can be used for the purpose of corroboration



and contradiction. Relying upon the evidence of P.W.1, the Tribunal has fastened the liability on the Insurance Company which cannot be founded fault with. Based on the aforesaid discussions, the judgment and decree passed by the Tribunal do not call for any interference.

11. In the result, this civil miscellaneous appeal stands dismissed. No costs.

30.01.2024

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Index : Yes / No

Internet : Yes/ No

Speaking/non-speaking order

To

The Motor Claims Tribunal/ (II Judge, Court of Small Causes, Chennai).



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**R.KALAIMATHI, J.**

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30.01.2024