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Civil Miscellaneous Appeal No.1279 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1279 of 2023

Krishnan

... Appellant

Vs.

TATA AIG General Insurance company Limited,
Penninsula Corporate Park, Nikkolos, Piramal Tower,
9th Floor, Kanpatrav kadam mark,
Lower Beral, Mumbai – 400 013 ... Respondent
Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles
Act, 1988, to set-aside the order dated 10.01.2023 made in MCOP
No.137 of 2021 on the file of the Motor Accident Claims Tribunal at
Dharmapuri.

For Appellant : Mr.T.L.Thirumalaisamy

For Respondent : MrV.Vikma
for Mr.J.Michael Visuvasam



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JUDGMENT

The claimant has filed the present appeal challenging the award passed by the Motor Accident Claims Tribunal at Dharmapuri in MCOP No.137 of 2021 dated 10.01.2023, dismissing the claim petition.

2. The case of the claimant is that he was riding the two wheeler and an unknown vehicle was driven in a rash and negligent manner and it rammed on the two wheeler driven by the claimant. As a result, the claimant sustained injuries and the pillion rider died in the accident. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3. The Tribunal on considering the claim made by the appellant and the defence taken by the Insurance company, came to a conclusion that the case on hand falls within the claim made under the personal accident coverage policy and it is governed by the contractual obligation between both the parties who are governed by the terms and conditions of the contract. Therefore, such contractual liabilities cannot be adjudicated by a Motor Accident Claims Tribunal under Section 166 of the Motor



Vehicles Act or under Section 163 A of the Motor Vehicles Act. In view of the same, the Tribunal proceeded to dismiss the claim petition. Aggrieved by the same, the present appeal has been filed before this Court.

5. Heard Mr.T.L.Thirumalaisamy, learned counsel for appellant /claimant and MrV.Vikma, for Mr.J.Michael Visuvasam learned counsel for respondent/Insurance company.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. In the considered view of this Court, the finding rendered by the Tribunal is perfectly in order. The claim in the present case falls within the personal accident coverage, which is a contractual liability which cannot be adjudicated by the Tribunal. If ultimately, the personal accident coverage has not acted upon and compensation is not granted to the appellant, the appellant has to work out his grievance before the Consumer forum. Therefore, the claim made by the appellant does not fall within the scope of Section 166 or 163A of the Motor Vehicles Act. Thus,



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the finding rendered by the Tribunal is hereby confirmed.

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5. In this result, this Civil Miscellaneous appeal stands dismissed. It is left open to the appellant to work out his remedy in the manner known to law. No costs.

05.07.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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N.ANAND VENKATESH.,J

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To,
Motor Accident Claims Tribunal at Dharmapuri.

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05.07.2024