



WEB COPY **M.DHANDAPANI, J.**

The matter is listed today under the caption “for being mentioned”.

2. It is brought to the notice of this Court that the date of the order in first page, 6th page and last page has been wrongly typed. Therefore, this Court may kindly pass appropriate orders showing the correct date.

3. This Court perused the order and finds that though the order was passed on 05.12.2024, however in the first page, 6th page and last page, it is shown erroneously. Registry is directed to modify the same to reflect the date as 05.12.2024 and issue fresh order copy to the parties.

4. Except the above modification, remaining portion of the order dated 05.12.2024 shall stand unaltered.

10.07.2025

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2

M.DHANDAPANI, J.

rli

CMA. No.1514 of 2021

10.07.2025



WEB COPY



3

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1514 of 2021

P.Muniappan

.. Appellant

Vs.

1. V.Danish
2. V.Vincent
3. Iffco Tokio General Insurance Co. Ltd.,
Branch Office,
Tulsi Buildings, 3rd Floor,
195, TV Samy Road,
West R.S.Puram,
Coimbatore.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 14.12.2020 made in MCOP. No.668 of 2013 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court, Erode.

For Appellant : Mr.S.Kaithamalai Kumaran
For Respondents : Ms.Rathna Thara R3

J U D G M E N T

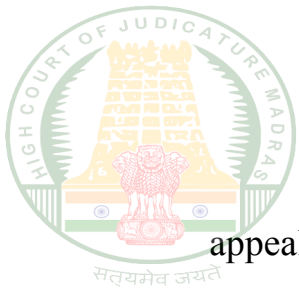
This appellant/claimant has come forward with this appeal seeking to quash the decree and judgment dated 14.12.2020 made in MCOP. No.668 of 2013 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court, Erode.



WEB COPY 2. Brief fact which are necessary for disposal of this appeal is as follows:-

On 02.06.2006, when the appellant and his son were walking along with defective TVS XL Super Motorcycle bearing Reg. No. TN 38 4185 in Vilangurichi Road, at that time, the first respondent rode the motorcycle bearing Reg. No. TN 37 AY 1422 in a rash and negligent manner, dashed against the appellant and his son. As a result, the appellant sustained injuries and admitted in hospital for treatment. Thereby, the appellant/claimant has filed a claim Petition before the Labour Court claiming compensation of Rs.10,00,000/- against the owner of the vehicle and its insurer.

3. Before the Tribunal, during trial, in order to prove the case, on the side of the appellant, one witness was examined and marked 12 documents viz., Exs. P1 to P12, On the side of the respondent/Insurance company, two witnesses were examined and four documents were marked. The Tribunal, considering the pleadings, oral and documentary evidence, dismissed the claim petition. Aggrieved by the said award, the appellant has filed this



appeal before this Court.

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4. The learned counsel for the appellant/claimant submitted that the appellant was pedestrian at the time of the accident and sustained grievous injuries due the accident and denying compensation for the injuries sustained is against the Motor Vehicle Act and Rules. The Tribunal has dismissed the claim petition based on the FIR. Without considering the nature of injuries sustained by the claimant, rejecting the claim made by the appellant, is unsustainable.

5. Per contra, learned counsel appearing for the third respondent/insurance company submitted that the motor cycle bearing registration No.TN 37 AY 1422 was insured with the third respondent insurance company at that time of the accident. The police had registered the FIR as against one Sivaprakasam, who was rider of motorcycle and charge sheet also filed against him. Hence, the said Sivaprakasam was torfeasor for the said accident. After conducting elaborate trial, the Tribunal has dismissed the claim petition. Hence, this Court may dismiss the present appeal.



WEB COPY 6. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

7. The factum of the accident is not disputed by the parties and so also the liability. Therefore, this Court is not entering into the said aspect. The only grievance of the claimant is with regard to the negligence which has been fastened on him.

8. According to the appellant, he sustained injuries due to the accident which happened on 02.06.2006. According to the 3rd respondent, the appellant was not walking along with the defective two wheeler, but he was travelling as a pillion rider in TVS 50 and the accident had happened only due to the rash and negligent driving of his son Sivaprakasam and rightly FIR was registered against his son.

9. This being so, the learned counsel for the appellant submitted that the criminal Court records is not binding upon the Tribunal and the Tribunal



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has to decide the negligence on the basis of the oral and documentary evidence placed before it. Admittedly the Criminal Court records is not binding the Tribunal but at the same time, the appellant's case is based upon E.P1 FIR. On perusal of the same, the son of the appellant viz., Sivaprakasam driven the two wheeler along with the appellant as pillion rider, in a rash and negligent manner from south to north and dashed against the first respondent two wheeler motorcycle. The Ex.P1 FIR, EX.P3 Rough sketch, Ex.P3 Observation Mahazar and Ex.P6 Charge sheet are against the submission made by the appellant.

10. On perusal of the award, it is seen that in chief examination, PW1, who is the appellant herein stated that the appellant's TVS 50 got repaired while the appellant and his son were returning to Bharathi Nagar. Hence, the appellant's son was holding the two wheeler and the appellant was walking behind it by pushing the two wheeler. At that time, the first respondent hit against the appellant, due to which, he sustained injuries. However, as per the FIR, the son of the appellant was alleged to have been riding the motor cycle along with the appellant as pillion rider in a rash and negligent manner and dashed against the first respondent motor cycle. FIR



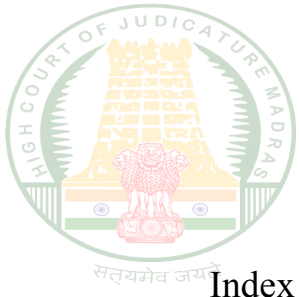
has also been registered as against the appellant's son, but it is bereft of any materials.

11. Further, the appellant has not produced the involved vehicle before the Motor vehicle Inspector for inspection. When the appellant has produced the M.V. Report of the first respondent vehicle before the Tribunal, the reason for non production of M.V.Report of his vehicle has not been properly explained, which creates a doubt. The Ex.P1/FIR, Ex.P3/Rough sketch, Ex.P3/Observation Mahazar and Ex.P6/charge sheet are against the submission made by the appellant. To prove the case, the appellant has not examined any independent eyewitness before the Tribunal. Hence, the Tribunal has rightly assessed the issue and dismissed the claim petition, which does not warrant any interference.

12. In the result, the civil miscellaneous appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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11.12.2024



Index : Yes

Speaking Order : Yes

To

The Motor Accidents Claims Tribunal, Special Subordinate Court, Erode.



WEB COPY



10

M.DHANDAPANI,J.

Rli

C.M.A.No.1514 of 2021

05.12.2024