



Civil Miscellaneous Appeal No.2760 of 2021

WEB COPY

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 12.12.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**Civil Miscellaneous Appeal No.2760 of 2021**

Usha

W/o.Chandrasekar

... Appellant

Vs.

1.G.Purushothaman

S/o.D.Gopal

2.United India Insurance Co. Ltd.,

Silinghi Buildings,

New No.134, Old No.40-45,

Greens Road, Chennai - 600 006.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 22.01.2021 made in M.C.O.P.No.351 of 2016 on the file of the Motor Accident Claims Tribunal, V Court of Small Causes, Chennai.

For Appellant : Ms.Ramya V.Rao

For Respondents : R1-Dispensed with  
Ms.K.Kumudha for R2



Civil Miscellaneous Appeal No.2760 of 2021

WEB COPY

\*\*\*\*\*

**JUDGMENT**

The appellant/claimant, aggrieved by the award passed by the Motor Accident Claims Tribunal, V Court of Small Causes, Chennai, in M.C.O.P.No.351 of 2016, dated 22.01.2021, has filed this appeal.

2. The case of the appellant/claimant is that on 23.08.2015 at about 17.15 hours, when the appellant/claimant was riding as pillion rider in a motorcycle in Poonamallee to Mount Main Road, Kattupakkam, the rider of the two wheeler [husband of the appellant/claimant] suddenly turned right side without any indication, due to which, a motorcycle which was coming behind, hit the appellant/claimant's two wheeler, as a result the appellant/claimant fell down and sustained grievous injuries. It is under these circumstances, the appellant/claimant has filed the claim petition before the Tribunal against the respondents, who are the owner and insurer of the motorcycle driven by the husband of the appellant seeking for compensation on the ground that the accident had happened due to the rash and negligent riding of the husband of the appellant/claimant.



WEB COPY

3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the appellant/claimant has failed to prove that the accident has occurred due to the rash and negligent riding of the motorcycle ridden by her husband and hence, the claim petition lacks merit. Having rendered such a finding, the Tribunal dismissed the claim petition. Aggrieved by the said order, the appellant/claimant has filed this appeal.

4. The learned counsel appearing for the appellant submits that admittedly, the accident was occurred on 23.08.2015 and FIR was registered on 21.11.2015 on the file of Poonamallee Traffic Investigation Wing. Even as per the FIR, the appellant though claimed that unknown vehicle dashed against her husband's vehicle and thereby, the accident had happened, the vehicle has comprehensive policy and therefore, the appellant as a pillion rider is entitled to get compensation and thereby, the claim petition was filed, however, the Tribunal has rejected the claim petition.



WEB COPY

5. The learned counsel appearing for the second respondent submits that even as per the statement of the appellant in FIR, unknown motorcycle dashed against the motorcycle driven by the appellant's husband and therefore, the second respondent, who is the insurer of the motorcycle belonging to the first respondent, is not liable to pay compensation to her and thereby, the claim petition was rightly rejected by the Tribunal.

6. This Court carefully considered the submissions made on both sides and perused the materials available on record.

7. The appellant in her claim petition and the proof affidavit claimed that she was traveling as a pillion rider in a motorcycle belonging to the first respondent ridden by her husband in a rash and negligent manner and one unknown motorcycle came on the back side and hit on the appellant's motorcycle, due to which, she fell down and sustained injury, whereas, in the FIR which was registered on the complaint given by the appellant, it has been stated that when she was



Civil Miscellaneous Appeal No.2760 of 2021

WEB COPY

travelling as a pillion rider in a motorcycle ridden by her husband at Porur Main Road, one unknown motorcycle ridden by its rider in a rash and negligent manner hit on the backside of the appellant's motorcycle. The Tribunal, after considering the above factual aspects, held that due to rash and negligent act of the rider of the unknown motorcycle, the accident was happened. However, the appellant failed to prove that the accident had occurred due to rash and negligent driving of her husband and thereby, she sustained injuries. Further, the appellant has not examined any eye-witness before the Tribunal to prove the accident. Hence, the Tribunal has rightly rejected the claim petition filed by the appellant in M.C.O.P.No.351 of 2016 vide impugned award dated 22.01.2021, which does not require any interference by this Court.

8. Accordingly, this Civil Miscellaneous Appeal is dismissed.

There shall be no order as to costs.

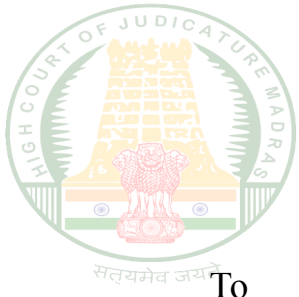
**12.12.2024**

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

ssb



Civil Miscellaneous Appeal No.2760 of 2021

To  
WEB COPY

The Motor Accident Claims Tribunal,  
V Court of Small Causes, Chennai.



WEB COPY



Civil Miscellaneous Appeal No.2760 of 2021

**M.DHANDAPANI, J**

ssb

**Civil Miscellaneous Appeal No.2760 of 2021**

**12.12.2024**