



Civil Miscellaneous Appeal No.25 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.25 of 2022

V.Rajeswari

W/o.Venkatesan

... Appellant

Vs.

1.G.Thangarasu

S/o.Gopal

2.ICICI Lombard General Insurance Co. Ltd.,

Chotah Bhai Centre, 2nd Floor,

No.140, Nungambakkam High Road,

Chennai - 600 034.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.1066 of 2014, dated 21.04.2021, by the Motor Accident Claims Tribunal/ IV Judge, Court of Small Causes, Chennai.



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For Appellant : Ms.Ramya V.Rao

For Respondents : Mr.B.Sivakollappan [R2]

JUDGMENT

This appeal has been filed by the appellant/claimant against the award passed by Motor Accident Claims Tribunal/ IV Judge, Court of Small Causes, Chennai, in M.C.O.P.No.1066 of 2014, dated 21.04.2021, mainly on the ground that the Tribunal had treated the claim under no fault liability under Section 140 of the Motor Vehicles Act and directed the respondents 1 and 2 to pay compensation of Rs.25,000/- with interest at 7.5% p.a.

2. Heard Ms.Ramya V.Rao, learned counsel for appellant/claimant and Mr.B.Sivakollappan, learned counsel for second respondent insurance company.

3. The specific case of the appellant/claimant in her claim petition is that she was travelling in a two wheeler that was driven by the first respondent, who is her uncle on 16.04.2013 and at about 4.00 hours, an unknown motor cycle was driven in a rash and negligent manner and it



hit the two-wheeler in which the appellant/claimant was travelling. As a result, the appellant/claimant fell down and sustained grievous injuries all over her body.

4. The same stand has been taken by the appellant/claimant even in the First Information Report that came to be registered in Crime No.224 of 2013 which resulted in filing of final report, which was marked as Ex.P14. The referred charge sheet was filed as 'undetected' since the offending vehicle was not able to be traced.

5. Considering the evidence available on record, the Tribunal came to a conclusion that the negligence was only on the part of the unknown vehicle and therefore, ordered payment of compensation under no fault liability.

6. Learned counsel for appellant/claimant attempted to project the case as if there was composite negligence and that some amount of negligence has to be attributed as against the first respondent also and in which case, the claimant will be entitled for payment of compensation



under Section 166 of the Motor Vehicles Act.

7. There is absolutely no material to show that there was negligence on the part of the first respondent. In any case, the first respondent is none other than the uncle of the appellant. If really the appellant wants to prove the manner in which accident had taken place, the best person to speak about the same will be the first respondent. However, the first respondent conveniently remained *ex parte* and did not contest the case. It is quite clear from the records that since the accident took place due to an unknown vehicle, an attempt was made to develop the case as if there was also negligence on the part of the first respondent with whom the appellant was travelling as a pillion rider. The Tribunal found that no case has been made against the first respondent and the claim that was made by the appellant/claimant went against her stand that was taken by her in the claim petition and also in the complaint that was given to the police. In view of the same, this Court does not find any ground to interfere with the award passed by the Tribunal and the same is sustained as it is.

In the result, this Civil Miscellaneous Appeal is dismissed. No costs.



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Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

gm

To

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

N.ANAND VENKATESH, J

gm



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