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C.M.A.No.2188 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.2188 of 2017 and C.M.P. No.11652 of 2017

Manager,
United India Insurance Company Ltd.,
12-A, Covai Salai,
PLA Building, 2nd Floor,
Karur - 639 002.

.. Appellant

Vs.

1.Kathirvel

2.Alli Muthu

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 05.06.2015 made in M.C.O.P. No.1077 of 2013 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Namakkal.

For Appellant : Mr.D.Bhaskaran

For Respondents : Mr.C.Kulanthaivel for R1
No appearance for R2

JUDGMENT

This appeal has been filed by the appellant/Insurance Company, questioning their liability to pay compensation on the ground that the



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claimant, viz. the first respondent herein was himself a Tort Feasor and was responsible for the cause of accident.

2.In the instant case, the first F.I.R. was registered only against the first respondent/claimant, who had sustained injuries as a result of an accident involving his vehicle as well as the vehicle, insured with the appellant. The rider of the vehicle, insured with the appellant, also sustained injuries due to the said accident.

3.It is an admitted fact that the first respondent/claimant had pleaded guilty after a charge sheet was filed against him and he had also paid a fine amount. Thereafter, he had lodged a complaint with regard to the accident alleging fault on the part of the rider of the vehicle, insured with the appellant.

4.Admittedly, after investigation, the second F.I.R. was closed due to the mistake of fact. During the course of his cross examination, the first respondent/claimant has also admitted his guilt and has also admitted the fact that he had paid fine amount after a charge sheet was filed against him in respect of the first F.I.R. However, erroneously based on



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the evidence of the alleged eye witness/P.W.2, the Tribunal has held the rider of the motor vehicle, insured with the appellant was responsible for the cause of the accident and has directed the appellant/ Insurance Company to pay compensation to the first respondent/ claimant, which in the considered view of this Court is arbitrary and the findings are unsustainable.

5. When the first respondent/claimant has himself pleaded guilty that he was responsible for the cause of accident and has also paid fine amount, which is also admitted by him during his cross examination by the appellant/Insurance Company, the Tribunal ought not to have directed the Insurance Company to pay compensation to the first respondent/claimant. There is also no preponderance of probability to hold the appellant/Insurance Company liable to pay compensation to the first respondent/claimant.

6. For the foregoing reasons, the impugned award passed by the Tribunal is erroneous, arbitrary and is not in accordance with the



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ABDUL QUDDHOSE, J.

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evidence available on record and therefore, it has to be set aside by this
Court insofar as the appellant/Insurance Company is concerned.

7. Accordingly, the impugned award passed by the Tribunal against
the appellant/Insurance Company is hereby set aside and this appeal is
allowed.

8. The appellant/Insurance Company is permitted to withdraw the
amount, which is lying to the credit of the M.C.O.P. No.1077 of 2013 on
the file of the Motor Accidents Claims Tribunal, Additional District
Judge, Namakkal, by filing an appropriate application. No costs.

24.04.2024

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To

1. The Motor Accidents Claims Tribunal,
Additional District Judge, Namakkal.
2. The Section Officer,
V.R. Section, High Court, Madras.

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