



Civil Miscellaneous Appeal No.919 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.919 of 2024

and

C.M.P.No.8516 of 2024

Shri Ram General Insurance Co Limited
No.4, Lady Desika Road,
Mookambika Complex,
2nd Floor, Chennai 600 004

... Appellant

Vs.

1.Mala

2. Pavithara

3. Jeeva

4. Govindhasamy

5. Kannammal

K.Murugan (Died)

6. Geetha

7. Aadhi Lakshmi

... Respondents



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Civil Miscellaneous Appeal No.919 of 2024

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 01.08.2023 made in M.C.O.P.No.5453 of 2017 on the file of Motor Accident Claims Tribunal, Special Sub II Judge, Court of Small Causes, Chennai.

For Appellant : Mrs.R.Sreevidhya

For Respondents : Mr.K.Varadhakamaraj
for R1 to R3 Caveators

JUDGMENT

The appellant insurance company, aggrieved by the award passed by the Motor Accident Claims Tribunal, Special Sub II Judge, Court of Small Causes, Chennai in M.C.O.P.No.5453 of 2017 dated 01.08.2023, has filed the present appeal, questioning the very mulcting of the liability on the Insurance Company.

2. The claimants are the wife, children and parents of the deceased Subramani. On 11.07.2017 at about 12.15 hours. The deceased



Subramani was travelling in a two wheeler as pillion rider. The said two wheeler was driven by one Murugan, who is also the deceased in this case. Apart from the deceased Subramani, there was yet another pillion rider viz., Sudharsan. Thus, they have gone on triples in the two wheeler. When the two wheeler was nearing Kalapath Junction, a tree fell over the vehicle and as a result, the rider and pillion riders sustained grievous injuries. Unfortunately, the deceased Subramani succumbed to the injuries. It is under these circumstances, the claimants have file a claim petition before the Tribunal seeking for payment of compensation.

3. The Tribunal on considering the facts and circumstances of the case and on appreciating the oral and documentary evidence, came to a conclusion that the rider of the vehicle did not properly notice the tree, which was in a very weak condition due to the fire and thus, the tribunal came to a conclusion that there was negligence on the part of the rider of the vehicle. Having rendered such a finding, the Tribunal proceeded to determine the compensation and the total compensation was fixed at Rs.13,19,000/- in the following manner:-



Sl. No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income/dependency	10,89,000/-
2.	Loss of Consortium	2,00,000/-
3.	Loss of Estate	15,000/-
4.	Funeral expenses	15,000/-
5.	Medical bills	Nil
	Total	13,19,000/-

4. The Insurance company aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special Sub II Judge, Court of Small Causes, Chennai in M.C.O.P.No.5453 of 2017 dated 01.08.2023, has filed this appeal.

5. Heard Mrs.R.Sreevidhya, learned counsel for appellant insurance company and Mr.K.Varadhakamaraj, learned counsel for respondents 1 to 3.

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



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7. This Court also carefully went through the award passed by the Tribunal.

8. Learned counsel for appellant insurance company contended that the accident in this case had taken place because of the tree falling on the insured two wheeler and the same cannot be treated as a motor cycle accident. That apart, the claim petition was filed under Section 166 of the Motor Vehicle Act and the same cannot be maintained since there is a fault on the driver viz., the rider of the two wheeler. Hence, the Tribunal ought not to have mulcted the insurance company for the payment of compensation to the claimants. The learned counsel also questioned the quantum of compensation fixed by the Tribunal.

9. *Per contra*, learned counsel for respondents 1 to 5/claimants submitted that it will suffice if there is a casual relationship between the user of the motor vehicle and the accident which resulted in the injury or death and it is not necessary that it should be direct or proximate. The learned counsel in order to substantiate his submission relied upon Section 147 of the Motor Vehicles Act wherein the expression “arising out



of” was liberally interpreted in a recent judgement of this Court in ***[Iffco Tokyo General Insurance Co. Ltd., Vs. Joes Antony and others]*** reported in **2018 (2) TN MAC 231**. The learned counsel therefore submitted that the award passed by the Tribunal does not warrant the interference of this Court.

10. In the instant case, it is quite apparent that the accident had taken place only due to the tree falling on the two wheeler. The plain reading of Section 147 (1) (b) (I) shows that it will suffice if the death or bodily injury had arisen out of the use of the vehicle in a public place. In the case in hand, the Motor vehicle viz., the two wheeler has been used in a public place and while doing so, the tree had fallen on the motor cycle.

11. This Court had an occasion to deal with the scope of Section 147 of the Motor Vehicles Act in the case of ***[Iffco Tokyo General Insurance Co. Ltd., Vs. Joes Antony and others]*** reported in **2018 (2) TN MAC 231**. The relevant portions in the judgement are extracted hereunder :-



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6. No doubt, the claimant was injured only in the attack by the members of mob. But the mob had assembled in the scene only because of the use of the motor vehicle. The driver, who drove the vehicle in which the claimant was travelling had hit the motorcyclist and caused him injuries. It is this that caused the mob to assemble in the spot. The expression 'arising out of' has to be liberally and expansively construed as laid down by the Hon'ble Supreme Court in the decision reported in 1999 ACJ 777 (SC) ([Shivaji Dayanu Patil v. Vatschala Uttam & More](#)). It was held therein that the causal relationship between the user of the motor vehicle and accident which resulted in injury or death caused to the victim need not to be direct and proximate. This decision was followed by a subsequent Bench of the Hon'ble Supreme Court in the decision reported in 2011(1) TN MAC 144 (SC) in the case of [New India Assurance Co. Ltd., Vs. Yadu Sambhaji More & others](#). In both the cases, a petrol tanker was involved. On account of a collision, the tanker was capsized. The petrol started leaking. The local people assembled near the accident site and started to collect the petrol. Suddenly, the petrol caught fire and in the ensuing explosion, there were a number of casualties. The Hon'ble Supreme Court held that the accident arose out of the use of the motor vehicle.

7. I am of the view that the distinction between the injury arising out of the use of the vehicle and the injury arising out of the accident caused by the use of the motor vehicle is a distinction



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*without difference. **The Motor Vehicle Act** is a beneficial piece of legislation. Therefore, the expression employed therein has to be so interpreted as to give effect to the legislative objective and intention. I am, therefore, of the view that the Tribunal correctly applied the provisions of law and came to the right decision. The liability was rightly fixed on the insurer and it does not warrant any interference.*

12. I am in complete agreement with the above judgement rendered by Hon'ble Justice G.R.Swaminathan. The learned Judge while rendered the above findings, had relied upon the earlier judgement of the Apex Court and has come to a conclusion that the motor vehicles Act is a beneficial piece of legislation and it has to be interpreted by keeping in mind the legislative objective and intention. In view of the same, the learned Judge had sustained the award passed in a case where the injury had taken place to the claimants due to the attack of the mob after he had hit another motor vehicle.

13. The next contention that was raised by the learned counsel appellant is that the claim petition has been filed under Section 166 of the Motor Vehicles Act and if the accident had not arisen out of negligence on



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the part of the rider, then such a claim petition is not maintainable.

14. In the considered view of this Court, the jurisdiction of the Tribunal under Section 165 of the Motor Vehicles Act to deal with applications filed under Section 166 of the Motor Vehicles Act is not restricted to decide claims arising out of negligence alone in the use of motor vehicle. Negligence is only one of the species of the causes of action for making a claim for compensation inspite of accident arising out of the use of motor vehicles. There are other premises for such cause of action. Like in the instant case, when the motor vehicle was used in a public place, the tree fell down on the two wheeler which resulted in the accident. Therefore, even when there is no negligence on the part of the rider of the two wheeler, the accident had taken place when the vehicle was put to use in a public place. Therefore, the insurance company automatically becomes liable for the payment of compensation to persons who have suffered injury or to the claimants of the deceased, as the case may be. Useful reference can be made to the judgement of the Apex Court in **[Kaushnuma Begum and others Vs. New India Assurance Co. Ltd and others]** reported in **AIR 2001 SC 485**.



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15. Insofar as the compensation that was fixed by the Tribunal, this Court finds that a reasonable compensation has been fixed under various heads and it does not require the interference of this Court.

16. In the result, the Civil Miscellaneous Appeal stands dismissed. The entire compensation along with accrued interest shall be deposited within a period of four weeks from the date of receipt of a copy of this order, less whatever has already been deposited. No costs. Consequently, connected miscellaneous petition is closed.

15.04.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To

Motor Accident Claims Tribunal, Special Sub II Judge, Court of Small Causes, Chennai.

N.ANAND VENKATESH.,J

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