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C.M.A.No.1914 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2024

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THE HONOURABLE MRS. JUSTICE J.NISHA BANU

AND

THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

C.M.A.No.1914 of 2024

and C.M.P.No.15052 of 2024

The Branch Manager,
United India Insurance Co. Ltd.,
No.171-E, Nehruji Road, Villupuram

...Appellant

vs.

1. Seshadri

2. J.Sambasivam

...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the award dated 25.01.2023 made in M.A.C.T.O.P.No.66 of 2021 on the file of Motor Accident Claims Tribunal/ (Special Subordinate Court No.II), Villupuram.

For Appellant : Ms.R.Rathna Thara

For 1st Respondent : Mr.T.K.Saravanan

For 2nd Respondent : Mr.R.Gokulnath



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JUDGMENT

(Judgment of the Court was made by Mrs.R.Kalaimathi, J.)

This Civil Miscellaneous Appeal has been preferred by the Insurance Company against the award dated 25.01.2023 made in M.C.O.P.No.66 of 2021 on the file of the Motor Accident Claims Tribunal/Special Sub Court-II, Villupuram as regards the liability issue.

2. The claim petition was filed under Section 166(1) of Motor Vehicles Act, 1988, claiming compensation of Rs.75,00,000/- for the injuries sustained by the petitioner in a road traffic accident that occurred on 26.02.2020.

3. Upon consideration, the Tribunal ordered compensation under various components which are tabulated hereunder:

Sl. No.	Description	Amount awarded by the Tribunal
1.	For Disability and Future Loss of Income	Rs.22,27,680/-
2.	For Pain and Suffering	Rs.1,50,000/-
3.	For Loss of Amenities	Rs.1,50,000/-
4.	For Matrimonial Prospects	Rs.50,000/-



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Sl. No.	Description	Amount awarded by the Tribunal
5.	For Extra Nourishment	Rs.30,000/-
6.	For Damage to clothes	Rs.1,000/-
7.	For Transportation Charges	Rs.30,000/-
8.	For Medical Expenses	Rs.67,620/-
9.	Attendant Charges	Rs.30,000/-
Total		Rs.27,36,300/-

4. Heard Ms.R.Rathina Thara, learned counsel appearing for the appellant/2nd respondent, Mr.T.K.Saravanan, learned counsel appearing for the first respondent and Mr.R.Gokulnath, learned counsel appearing for the second respondent.

5. Ms.R.Rathana Thara, learned counsel appearing for the appellant/second respondent would strenuously argue that, on misconception of facts, the liability was fixed on the first and second respondents, which is not correct. She would further argue that the driver of the tractor said to have been involved in the accident has been examined as R.W.1 has in fact deposed that it was the claimant who was rash and negligent and caused the accident.

6. Per contra, Mr.T.K.Saravanan, learned counsel appearing for the



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first respondent/claimant would vehemently contend that, it is the driver of the tractor and trailer was at fault and because of his rash and negligent driving of the tractor, accident occurred and liability is correctly fastened upon the driver-cum-owner of the tractor. He would contend that the FIR was closed as mistake of fact.

7. At trial, claimant has examined himself as P.W.1 and as many as 18 documents were marked through him. Whereas, on the second respondent side, one Sambasivam and the Special Sub-Inspector of Police of Panrutti Town Police Station have been examined as R.W.1 and R.W.2 and the final report is Ex.R1. Disability Certificate issued by the Medical Board is Ex.C1.

8. It has come on record through the evidence of P.W.1 who was the rider of motorcycle bearing Registration No.TN 32 AJ 9928 that on 26.02.2020 at about 00.30 hours while he was riding his motorcycle bearing Registration No.TN 32 AJ 9928 from Kolianur to Chithirachavadi along the Kumbakonam main road in the North-South Direction near Kandrakottai bridge, when he was trying to overtake the tractor of the first respondent bearing Registration No.TN 32 0263 along with trailer bearing Registration No.TN 32 0344, the driver of the tractor was driving the



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vehicle in a rash and negligent manner in order to avoid ups and downs in the damaged road, suddenly turned the vehicle towards the middle of the road, due to which the tractor hit on the two wheeler and eventually he sustained serious injuries.

9. It is the evidence of R.W.1 Sambasivam that the accident occurred due to the negligent driving of the motorcycle by the claimant. R.W.2 Special Sub-Inspector of Ponruti Town Police Station filed the final report and the case was closed as mistake of fact.

10. Among all the said witnesses, P.W.1 alone has spoken about the manner in which the accident took place. From the evidence on record, it is made clear that when the rider of the motorcycle was trying to overtake the tractor, the tractor turned towards the middle portion of the road and hit on the two wheeler. It is relevant to note that FIR was also registered against the driver of the tractor. Therefore, the trial Court has also fastened the liability on the first respondent driver-cum-owner of the tractor and on the Insurance Company from whom the vehicle policy was taken and the policy was in force. In such view of the matter, we have no reason to interfere with the findings of the trial Court on the question of liability. Based on the aforestated observations and discussions, this Civil



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Miscellaneous Appeal stands dismissed. Sequel to this, the award dated 25.01.2023 made in M.C.O.P.No.66 of 2021 on the file of Motor Accident Claims Tribunal / Special Sub Court-II, Villupuram stands confirmed. There is no order as to costs. Consequently, connected Civil Miscellaneous Petition stands closed.

(J.N.B.,J.)

(R.K.M.,J.)

28.08.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

The Motor Accident Claims Tribunal,
Special Sub Ordinate Court-II,
Villupuram.



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