



WEB COPY



Civil Miscellaneous Appeal No.104 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No .104 of 2024
and MP No.1 of 2012

Bhoopathi

... Appellant /Petitioner

Vs.

1. R.Mani

2. The New India Assurance Co Ltd.,
Divisional Office,
Premier complex Five Roads,
Salem

....Respondents /Respondents

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 30.08.2010 made in MCOP No.455 of 2007 on the file of the Motor Accident Claims Tribunal, Salem, Chief Judicial magistrate, Salem.

For Appellant : Mr.K.Kuppuramy

For Respondents : M/s.R.Sreevidhya for R2



WEB COPY



Civil Miscellaneous Appeal No.104 of 2024

JUDGMENT

This appeal has been filed challenging the award passed by the Motor Accident Claims Tribunal, Salem in MCOP No.455 of 2007 dated 30.08.2010.

2. On 23.03.2007 at about 2.00 p.m, when the appellant was walking in Omalur Road, she was dashed by the two wheeler owned by the 1st respondent and which was insured before the 2nd respondent. As a result, the appellant sustained injuries. A complaint was also given in this regard and based on the same, an FIR came to be registered in Crime No.105 of 2007. For the above accident that took place, a claim petition was filed before the Tribunal seeking for compensation.

3. The Tribunal dismissed the claim petition mainly on the ground that the driver of the vehicle was not even added as a respondent in the claim petition. The Tribunal relied upon various judgments passed by the Apex Court and this Court and came to a conclusion that the vicarious liability of the insurance company will arise only if the driver is



WEB COPY

made as a party to the proceedings. In the absence of the same, the insurance company cannot be made liable for paying the compensation.

4. Yet another ground that was put against the appellant was that the insurance company raised a claim that the driver of the vehicle did not possess a valid driving license. The Tribunal while answering this ground rendered a finding that the mere non possession of the driving license is not a ground to deny compensation.

5. The Tribunal mainly went on the ground that the driver of the vehicle was not added as a party and therefore, the very claim petition that was filed by the appellant was not maintainable. This award was passed in the year 2010 and after nearly 14 years, the matter has come up before this Court. The reasons assigned by the Tribunal does not suffer from any illegality and that apart, no useful purpose will be served in keeping this appeal pending after 14 years, after the accident took place.

6. In the light of the above discussion, this Civil Miscellaneous



Civil Miscellaneous Appeal No.104 of 2024

WEB COPY

Appeal is dismissed. Consequently, the connected miscellaneous petition is closed.

02.04.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

rka

To

The Motor Accident Claims Tribunal, Salem, Chief Judicial magistrate, Salem.



WEB COPY



Civil Miscellaneous Appeal No.104 of 2024

N.ANAND VENKATESH, J.

rka

Civil Miscellaneous Appeal
No.104 of 2024

02.04.2024