



*C.M.A(MD)No.1477 of 2013*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 09.01.2024

CORAM:

THE HON'BLE MR.JUSTICE **P. DHANABAL**

**C.M.A(MD)No.1477 of 2013**

**and**

**M.P(MD)No.1 of 2013**

Srinivasan

... Appellant/1<sup>st</sup> Respondent

Vs.

1.S.Balaji

... 1<sup>st</sup> Respondent/Petitioner

2.K.Muthuvel

... 2nd Respondent/2nd Respondent

**Prayer :** This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award passed in M.C.O.P.No.59 of 2009 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Tirunelveli, dated 14.03.2013.

For Appellant : Mr.B.Jameel Arasu  
for Mr.S.Paul Murugesan

R-1 : Dismissed

For R-2 : Mr.V.Sasi Kumar



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## **JUDGMENT**

The present Civil Miscellaneous Appeal has been filed as against the order passed in M.C.O.P.No.59 of 2009 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Tirunelveli, wherein the first respondent herein filed a petition for compensation as against the appellant and second respondent herein.

2. The Tribunal has passed an award directing the appellant herein to pay a sum of Rs.2,24,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation amount and also after payment made to the claimants, the same can be recovered from the second respondent herein. As against the order passed by the Tribunal, the first respondent has filed the present Civil Miscellaneous Appeal.

3. For the sake of convenience and brevity, the parties herein after will be referred to as per their status / ranking in the Tribunal.



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**4. The brief facts of the petition averments are as follows:**

On 22.07.2008, the petitioner while riding a two wheeler bearing Registration No.TN 09 S 1504 near Palayamkottai Market, the first respondent vehicle bearing Registration No.TN 69 B 7952 came in a rash and negligent manner and dashed against the two wheeler. Thereby the petitioner sustained injury. The accident took place due to the negligence of the first respondent vehicle driver, thereby filed the petition for claiming compensation of Rs.10,00,000/-.

5. The first respondent had filed a counter stating that the first respondent sold the said vehicle bearing Registration No.TN 69 B 7952 to one Siva Mariappan on 09.05.2007 itself. Therefore, on the date of accident, the first respondent is not the owner of the vehicle. Further the accident took place only due to the rash and negligence on the part of the rider of the two wheeler. Hence, the petition is liable to be dismissed.

6. In order to prove the case of the petitioner, the petitioner had examined P.W 1 and P.W 2 and marked Exhibits P.1 to P.9 and on the side of the respondents, R.W.1 was examined and marked Exhibit R.1.



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7. After evaluating the oral and documentary evidences adduced on either side, the Tribunal has passed an award as against the second respondent to pay a sum of Rs.2,24,000/- and thereafter, the second respondent can recover the same from the first respondent.

8. Being aggrieved by the above said order, the present Civil Miscellaneous Appeal filed by the first respondent owner of the vehicle on various grounds.

9. The learned Counsel appearing for the appellant would contend that the appellant was the previous owner of the vehicle bearing registration No.TN 69 B 7952 and he had sold the vehicle to one Siva Mariappan on 09.05.2007. But the Tribunal has fastened a liability as against the appellant / first respondent without considering that the said vehicle was sold much earlier to the date of accident. Therefore, the order passed by the Tribunal as against the first respondent is liable to be set aside. Further the Tribunal has awarded the excess amount when the petitioner was only sustained a simple injury and no any permanent



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disability to the petitioner. However, the award passed by the Tribunal is too high.

10. The learned Counsel appearing for the first respondent / claimant would contend that the accident took place due to the rash and negligent driving of the jeep driver and the same has not been denied by the appellant and the appellant only filed an appeal as against the liability. Though the first respondent / appellant has sold the property on the date of accident, the name transfer was not effected. Therefore, on the date of accident, the first respondent is the owner of the vehicle, since the RC book was in the name of the first respondent. Therefore, the Tribunal after taking into consideration of the injuries sustained by the petitioner, awarded a sum of Rs.2,24,000/- as against the respondent and the respondent after satisfying the amount can recover the same from the respondent. Therefore, the order passed by the Tribunal is in order and this appeal is liable to be dismissed.



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11. The learned Counsel appearing for the second respondent / second respondent would contend that the accident took place only due to the negligence on the part of the rider of the two wheeler and this petitioner on the date of accident drove the vehicle in a slow speed and cautious manner in spite of that the rider of the driver dashed against the jeep and invited the accident. Already the Tribunal has dismissed the petition as against the second respondent since he is the only driver of the vehicle.

12. This Court after hearing both sides and upon perusing the documents including the order of the Tribunal, the point for determination in this appeal is:

i) Whether the appeal is liable to be allowed or not?

13. In this case, the first respondent herein being injured filed a claim petition as against the appellant and second respondent herein for compensation. The Tribunal after analyzing the evidence adduced on both the sides awarded a sum of Rs.2,24,000/- by directing the first respondent to pay the award amount with interest at the rate of 7.5% per annum from



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the date of petition till the date of realisation and thereafter, recover the same from the second respondent herein. According to the appellant, already he had sold the vehicle which involved in the accident to the second respondent herein (i.e.,) on 09.05.2007. The second respondent also admitted the purchase of the vehicle from the appellant. On the date of accident, the second respondent is the owner of the vehicle and the first respondent is not the owner of the vehicle. However, the appellant admitted that on the date of accident, the registration certificate was not transferred either in the name of the first respondent or in the name of the second respondent. On the date of accident, the name transfer was not effected and the registration certificate was stood in the name of the appellant. It is a well settled law that unless the name transfer was effected in the registration certificate, the first respondent has to be treated as owner of vehicle and thereby, the Tribunal after taking into consideration of all the aspects correctly fastened the liability as against the appellant / first respondent and the same is correct, thereby, this Court has no warrant to interfere with the order of the Tribunal. As far as the quantum is concerned, the Tribunal has awarded a sum of Rs.2,000/- for 1% of disability and also awarded fair compensation and also on other heads, the



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award amount awarded by the Tribunal is fair and reasonable. Hence, this Court has no warrant to interfere with the order of the Tribunal.

14. In view of the above said discussions, this Civil Miscellaneous Appeal has no merits and deserves to be dismissed. Already the appellant has only deposited Rs.25,000/-. The appellant / first respondent is directed to deposit the entire award amount within a period of two (2) months from the date of this order after deducting the award amount already deposited by him as ordered by the Tribunal. Accordingly, this Civil Miscellaneous Appeal stands dismissed and the impugned award, dated 14.03.2013 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Tirunelveli is confirmed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

**09.01.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes  
BTR



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To

1. Motor Accident Claims Tribunal  
(Chief Judicial Magistrate),  
Tirunelveli.
2. The Section Officer,  
Vernacular Record Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**P. DHANABAL, J.**

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