



C.M.A.(MD) No.647 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.647 of 2013

and

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

The United India Insurance Co. Ltd.,
Appasamy Towers,
Shri Thiyagaraya Road,
T.Nagar, Chennai.

... Appellant

Vs.

1.Pappukannu
W/o.Periyasamy

2.M/s.Rock Town Air Travels (P) Ltd.,
No.536, Anna Salai,
Chennai-18.

... Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the Judgment and Decree dated 03.08.2011 passed in M.A.C.O.P.No.2042 of 2022 on the file of the Motor Accident Claims Tribunal (Additional District Court/Fast Track Court No.2), Trichy.

For Appellant : Mr.G.Prabhu Rajadurai

For R1 : Mr.N.Sudhagar Nagaraj



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J U D G M E N T

WEB COPY The instant appeal has been filed by the Insurance Company challenging the Tribunal's finding on liability.

2. The first respondent herein filed a claim petition, stating that on 10.03.2002, at about 08:30 p.m., while she was waiting at the bus stop, a two-wheeler bearing registration No.TN-09-K-4453, insured with the appellant, came in a rash and negligent manner and dashed against her, as a result of which she sustained grievous injuries and took treatment as an inpatient in an hospital.

3. The owner of the insured two-wheeler, namely, the second respondent herein, filed a counter, stating that the accident took place due to the negligence of the first respondent/claimant, as she had suddenly crossed the road, and although the rider of the two-wheeler attempted to apply the brake, he could not control the vehicle and collided with the first respondent, and therefore, the rider of the two-wheeler was not at fault.

4. The appellant, the Insurance Company, filed a counter, stating that the insured two-wheeler was not involved in the accident; that



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although the accident took place on 10.03.2002, the FIR was lodged on 05.05.2002, and the vehicle was inspected by the Motor Vehicle Inspectors only on 18.05.2002; that the insured two-wheeler was not involved in the accident; and that the claimant had claimed that the insured two-wheeler is the offending vehicle only for the purpose of claiming compensation from the Insurance Company and therefore prayed for the dismissal of the claim petition.

5. Before the Tribunal, the first respondent examined P.W.1 to P.W. 3 and marked Exs.P1 to P7, and the appellant, Insurance Company, examined R.W.1 and R.W.2 and marked Exs.R1 to R4.

6. The Tribunal, after taking into consideration the oral and documentary evidence, held that the accident took place only due to the negligence of the rider of the insured two-wheeler and directed the appellant, Insurance Company, to pay the compensation of Rs.57,000/- to the first respondent/claimant.

7. The learned counsel for the appellant, the Insurance Company, submitted that the insured two-wheeler was not involved in the accident



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and that the evidence of P.W.1 (the claimant) and P.W.3 (the eyewitness) does not inspire confidence, and that the FIR was lodged belatedly, falsely mentioning that the insured two-wheeler was the offending vehicle, and therefore, the appellant is not liable to pay any compensation.

8. The learned counsel for the first respondent/claimant submitted that, even though the FIR was lodged belatedly, the police, on investigation, found that the insured two-wheeler was involved in the accident and filed a final report before the Judicial Magistrate, and that the rider had pleaded guilty to the charge and the criminal court had convicted the rider; that the FIR filed by the appellant before the District Crime Branch, stating that the claimant committed fraud, which was marked as Ex.R4, cannot be accepted for the reason that the District Crime Branch has not filed any final report after the investigation; and that the award of the Tribunal is just and reasonable and deserves to be confirmed.

9. The only point for consideration in the instant appeal is whether the Tribunal's finding on liability is justified.



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10. Concededly, although the accident took place on 10.03.2002, the complaint was lodged only on 05.05.2002. The pleadings and evidence of P.W.1 and P.W.3 would show that the reason cited by P.W.1 (the claimant) for lodging the complaint belatedly is not acceptable. However, the police, after investigation, had filed the final report. The appellant, the Insurance Company, had not questioned the said final report. In fact, the rider of the insured two-wheeler against whom the final report was filed had pleaded guilty to the charge, and the criminal court convicted him, as could be seen from the Judgment of the criminal case marked as Ex.P3. It is also the fact that the appellant, the Insurance Company, conducted a private investigation and lodged a complaint with the District Crime Branch, as could be seen from Ex.R4. However, the appellant, the Insurance Company, had not taken any steps to pursue the said FIR and ascertain the result of the investigation pursuant to the said FIR.

11. In view of the evidence produced before the Tribunal, this Court is of the view that the finding of the Tribunal that the insured two-wheeler was involved in the accident and the direction to pay the compensation to the first respondent/claimant cannot be faulted. The appellant, Insurance



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Company, has not questioned the quantum of compensation. The award of the Tribunal is just and reasonable and is therefore confirmed. The point is answered accordingly.

12. The appellant, Insurance Company, is directed to deposit the compensation of Rs.57,000/- awarded by the Tribunal together with interest at 7.5% per annum from the date of the claim petition till the date of realization and costs, after deducting the amount already deposited, if any, within a period of four (4) weeks from the date of receipt of a copy of this Judgment.

13. On such a deposit, the first respondent/claimant is permitted to withdraw the same along with the interest and costs, less the amount already withdrawn, if any, by filing application before the Tribunal.

14. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Index: Yes/ No
Neutral Citation: Yes / No
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- 1.The Additional District Judge,
(Fast Track Court No.2),
Motor Accident Claims Tribunal,
Trichy.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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