



C.M.A(MD)No.404 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.404 of 2023

and

C.M.P.(MD)No.4862 of 2023

G.Satchu

... Appellant

Vs.

1.Muneeswari

2.Ganesan

3.Minor.Ramalakshmi

4.Balamurugan

5.Muthuveeran

6.National Insurance Company Limited,

represented by its Branch Manager,

Office at No.306/18, Madurai Road,

Thirumangalam.

... Respondents

(Minor 3rd respondent through her mother and guardian 1st respondent herein)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the award made in M.C.O.P.No.867 of 2018 dated 26.10.2022, on the file of the Motor Accident Claims Tribunal (I Additional District Judge), Tirunelveli.

For Appellant : Mr.T.Selvakumaran

For Respondents : No Appearance

JUDGMENT

The owner of the vehicle has filed this Civil Miscellaneous Appeal.



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2.It is a case of fatal. The contention of the appellant is that the accident occurred between TVS XL two-wheeler and Hero Honda two-wheeler. The Driver of the Hero Honda vehicle was not having valid license and he was a minor as well. But contributory negligence was fixed against the owner of TVS XL as 50% which is on a higher side. Moreover, both the owners remained ex-parte before the Tribunal. After hearing the arguments this Court is of the considered opinion that the case ought to be remitted back for rehearing.

3. However, in order to meet the ends of justice, this Court is of the considered opinion that the appellant herein / owner of TVS XL shall deposit Rs. 3,00,000/- to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the contention of the appellant herein / owner of TVS XL shall be reheard. Therefore, this Court is remitting the case back to the Tribunal and the Tribunal shall reconsider the case, for fixing liability on both the vehicles. The parties are at liberty to raise additional pleadings and adduce evidence before the Tribunal and the Tribunal shall consider the same and complete the case within a period of six months from the date of receipt of a copy of this judgment.



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4. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

13.03.2024

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

Tmg

To

1.Motor Accident Claims Tribunal /
(I Additional District Judge), Tirunelveli.

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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