



C.M.A(MD)No.323 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 26.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

C.M.A(MD)No.323 of 2022

and

C.M.P(MD)No.2970 of 2022

Sankaranarayanan

... Appellant / Respondent No.1

Vs.

**1.Liberty Videocon General Insurance Company Limited,
No.88, G.N.Chetty Road,
Parthasarathipuram,
T.Nagar,
Chennai - 600 017.**

... Respondent / 2nd Respondent

2.Petchiyammal

... Respondent / Petitioner

PRAYER :-

This Civil Miscellaneous Appeal is filed under Section 173 Motor vehicles Act to call for the records relating to the judgment and decree dated 23.09.2021 made in M.A.C.O.P.No.57 of 2017 on the file of the Motor Accident Claim Tribunal cum Subordinate Judge, Sankarankovil and set aside the same and allow this Civil Miscellaneous Petition.



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For Appellant : Mr.V.Angusamy
For R1 : Mr.R.Shivashankari
For R2 : Mr.R.J.Karthik

JUDGMENT

This Civil Miscellaneous Appeal is filed to call for the records relating to the judgment and decree dated 23.09.2021 made in M.A.C.O.P.No.57 of 2017 on the file of the Motor Accident Claims Tribunal cum Subordinate Judge, Sankarankovil and set aside the same.

2. The case of the prosecution is that at about 6.30 a.m., when the second respondent herein / petitioner was crossing Madurai - Tenkasi National Highway, near Pudur Sub Registrar Office, the appellant / first respondent was driving his two wheeler bearing registration No.TN 76 A 6998, in a rash and negligent manner and hit the second respondent / petitioner. She sustained multiple injuries. She was admitted in the Tenkasi Government Hospital, later shifted to private hospital. She took treatment for about a month as inpatient. Now she is continuing the treatment in various



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private medical hospitals. Over the occurrence, a case in Crime No.135 of 2017 under Sections 279 and 337 of IPC, was registered. At the time of the occurrence, she was attending agricultural coolie work and earning not less than Rs.6,000/-. Because of the accidental injuries, she could not continue her work as before. Claiming compensation, the claimant has filed the claim petition.

3. That was resisted by the insurance company and the appellant / first respondent. They have stated that it is the second respondent / petitioner, who had accidentally crossed the road and invited the accident. So she is not entitled for any compensation.

4. Before the Tribunal, on the side of the second respondent / claimant, was examined as P.W.1. On her side, nine (9) documents were marked. On the side of the respondents two witnesses were examined and five(5) documents were marked. Apart from that Ex.C1 and Witness Document No.1, were marked. At the conclusion of the enquiry, the Tribunal found that the occurrence took place because of the rash and negligent driving on the part of the first respondent vehicle rider. Regarding the compensation, on the



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basis of the Medical Board assessment, compensation was fixed based upon the percentage of disability sustained by the claimant. Adding to that the customary amount were added, including the medical treatment expenditure bills.

5. Heard both sides.

6. The Tribunal ought to have passed an order directing the insurance company to pay the money to the injured claimant and recover the same from the first respondent. Since liability is only under dispute now, we will go through the evidence on record. The trial Court has directed the first respondent to pay the entire award amount, against which this appeal is preferred by the owner of the vehicle. It is a clear finding of the Tribunal to that effect that the first respondent is not having or owning driving license to drive the two wheeler. It is admitted by him that he obtained license to drive Light Motor Vehicle. Observing that there is a violation, the Tribunal directed the appellant to give the compensation. But it is admitted by both sides that on the date of the occurrence, the policy was in force.



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7. When there is a violation of the policy conditions, then the usual order to be passed by the Tribunal is to direct the insurance company to pay the money to the injured and recover the same from the driver cum owner of the vehicle. But that was not followed by the Tribunal. Since it is an admitted position of law, the appeal is liable to be allowed.

8. The Civil Miscellaneous Appeal is partly allowed and the award passed by the Tribunal is modified as follows:

(i) The quantum of compensation awarded by the Tribunal as Rs.2,58,399/- is confirmed.

(ii) Since the appellant / first respondent has already deposited 50% of the awarded amount, the first respondent / Liberty Videocon General Insurance Company Limited, is directed to deposit the balance 50% of the compensation amount together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and with cost to the credit of M.A.C.O.P.No.57 of 2017 on the file of the Motor Accident Claims Tribunal Cum Subordinate Judge, Sankarankovil, within a period of two months from the date of receipt of a copy of this judgment. Thereafter, the



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first respondent / Insurance Company, is at liberty to recover the amount from the appellant.

(iii) On such deposit being made, the second respondent / claimant is at liberty to withdraw the compensation amount, after following the due process of law, less any amount already received by her.

(iv) No costs. Consequently, connected miscellaneous petition is closed.

26.04.2024

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

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To

- 1.The Motor Accident Claim Tribunal cum Subordinate Judge,
Sankarankovil.
- 2.The Section Officer, Vernacular Records Section,
Madurai Bench of Madras High Court, Madurai.



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