



C.M.A.(MD)No.1146 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.1146 of 2024

1. C.Krishnaveni

2. Saravanan

3. Rani

... Appellants

VS.

1. Kamalabai

2. M/s. The New India Insurance Co.Ltd.,
Rep. Through its Divisional Manager,
BSNL Building (HUB),
Ellisnagar, Madurai – 16.

3. K.S.Premkumar,

4. M/s.Reliance General Insurance Co.Ltd.,
Sri Meenatchi Plaza, 1st Floor,
Plot No.HIG 55, 80-Ft Road,
Anna Nagar, Madurai – 20.

... Respondents



C.M.A.(MD)No.1146 of 2024

WEB COPY

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1973, to set aside the Fair and Decreetal order passed in M.C.O.P.No.224 of 2017 dated 01.06.2022 on the file of the Special District Court (MACT), Madurai, and to allow the above CMA.

For appellant : Mr.S.Mughil

For Respondents

for R1 : Mr.T.Robest Chandra

for R2 : Mr.J.S.Murali

for R3 : No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred against the award dated 01.06.2022 passed in M.C.O.P.No.224 of 2017, on the file of the Motor Accidents Claim Tribunal/Special District Court, Madurai.

2. This Civil Miscellaneous Appeal relates to the liability issue to the effect that on the relevant date, there was no policy of insurance alive with the second respondent/Insurance Company and the entire liability was fastened



C.M.A.(MD)No.1146 of 2024

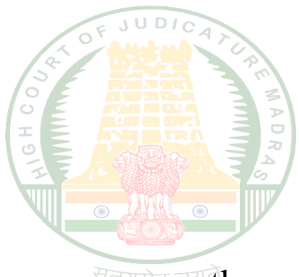
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on the owner of erred vehicle, namely, the Mini door Auto (Registration No.TN 59 AB 9101)

3. Heard learned counsel on either side and perused the relevant records.

4. The case details as set out in the claim petition are stated in brief hereunder:

On 09.06.2016 at about 17.30 hours, while the third respondent was riding his motor cycle bearing Registration No.TN-64-J-9375 along with pillion one Gopinath proceeding along Madurai-Alagarkovil Main Road from South to North direction in a rash and negligent manner and at the point of Marthankulam Vilakku, opposite to Deiventhiran Kalyana Mandapam, the driver of first respondent's Auto bearing Registration No.TN 59 AB 9101, came from the opposite direction in a rash and negligent manner at a high speed and turned forwards right side and dashed on the two-wheeler. Due to the said impact, the deceased was thrown out from the motor cycle and sustained grievous injuries and succumbed to the injuries on 11.06.2016. Hence, the owner of both the vehicles and their Insurance Company, namely,



C.M.A.(MD)No.1146 of 2024

WEB COPY

the second and fourth respondents are liable to pay compensation.

5. The details of the counter of the second respondent are stated in brief:

The vehicle, namely, Mini door load Auto bearing bearing Registration No. TN 59 AB 9101, on 09.06.2016 was not insured with the second respondent. Since there is no insurance coverage for the said load auto with the second respondent, on the relevant date, the petition is not maintainable as against the second respondent.

6. The details of the counter of the fourth respondent are stated in brief:

The rider of the two-wheeler bearing Registration No.TN 64 J 9375 was riding his motor cycle in a moderate speed and it is the driver of the load Auto, who came in the opposite direction and drove his vehicle in a rash and negligent manner, suddenly swirled the Auto on his right side and dashed against the third respondent vehicle. Therefore, the owner of the Auto, namely the first respondent and its insurer, namely, the second respondent are liable to pay compensation



C.M.A.(MD)No.1146 of 2024

WEB COPY

7. Despite the receipt of the summons, the first and third respondents before the Tribunal, neither appeared nor entered appearance through their Counsels.

8. At trial, to substantiate the details of the claim petition, on the claimant side, two witnesses were examined and nine documents were marked. On the side of the respondents, three witnesses were examined and twelve documents were marked.

9. The Tribunal, upon consideration, has concluded that it is because of the rash and negligent driving of the Auto, the accident happened. As there was no policy of insurance in force on the date of accident, the second respondent/Insurance Company was exonerated from the liability and the liability was fastened upon the first respondent/owner of the Auto. Against this finding, this appeal has been preferred by the claimants.

10. On the side of the petitioner, one Ramesh Kumar, has been examined as P.W.2 to speak about the accident. It is his evidence that on 09.06.2016 at about 05.30 p.m, he was proceeding with a pillion on the



C.M.A.(MD)No.1146 of 2024

WEB COPY

eastern side of the Madurai Alagarkovil Road and opposite to Deivendiran Kalyana Mandapam, the rider of the two-wheeler bearing Registration No.TN 64 J 9375, proceeding towards north direction and a Mini door Auto bearing Registration No.TN 59 AB 9101, came from opposite side in a rash and negligent manner and hit on the two-wheeler; the rider and pillion of the two-wheeler sustained serious injuries. The pillion rider, namely, the said Gopinath, was thrown out and he was sent to Madurai Rajaji Hospital in 108 Ambulance. It is his specific evidence that due to the rash and negligent driving of the Auto, the accident happened. During his cross-examination, he would state that at that point of time, except these two-wheelers, no other vehicles were plying on the road. No ocular witnesses was examined by the respondents.

11. From the evidence of the ocular witnesses, namely, P.W.2, the Tribunal has held that it is because of the rash and negligent driving of the Auto, the accident happened. As there was no policy of insurance alive on the date of accident, then the owner of the Auto was fastened with liability to pay compensation. This Court finds no perversity or infirmity in the said findings of the Tribunal.



C.M.A.(MD)No.1146 of 2024

WEB COPY

12. Based on the said discussions and observations, this Civil
Miscellaneous Appeal stands dismissed. No costs.

06.12.2024

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

1. The Special District Court (MACT), Madurai
2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD)No.1146 of 2024

R.KALAIMATHI,J

jbr

Pre-delivery order made in
C.M.A.(MD) No.1146 of 2024

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