



WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 04.11.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A(MD)No.1270 of 2024

and

C.M.P(MD)No.13515 of 2024

The Branch Manager,
Shri Ram General Insurance Company Limited,
E-8, RIICO Industrial Area, Sitapura, Jaipur,
Rajasthan – 302 022. ... Appellant/Second Respondent

.Vs.

1.Rijo Philip ... Ist Respondent/Petitioner

2.S.Abdul Rahman ...2nd Respondent/Ist Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 praying this Court to set aside the order and decretal order made in M.C.O.P.No.201 of 2018, dated 29.2.2024, on the file of the Motor Accidents Claims Tribunal(Principal Subordinate Court),Palani.

For Appellant : Mr.N.Shylappakalyan

For Respondents : No appearance



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JUDGMENT

This Civil Miscellaneous Appeal is preferred by the Insurance Company against the award made in M.C.O.P.No.201 of 2018, dated 29.2.2024, on the file of the Motor Accidents Claims Tribunal(Principal Subordinate Court),Palani, on the ground of liability.

2.Despite receipt of notice and their names printed in the cause list, there is no appearance on behalf of the first respondent/claimant and second respondent/first respondent.

3.Case of the Petitioner/claimant is that on 22.06.2018 at about 7.20 a.m.,when the petitioner was going for work to his company in a vehicle bearing Registration No.TN 78 V7008 in Dharapuram to Pollachi main Road, on the left side of the road towards east, a Swaraja Mazda four wheeler vehicle bearing Registration No. TN 48 B 8851 which came towards west was driven by its driver in a rash and negligent manner and hit against the claimant. Due to the accident, the petitioner sustained fractures and he was taken to treatment to government Hospital,Dharapuram and then to Vel Hospital, Palani. Hence he



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claimed a sum of Rs.15 lakhs as compensation.

4.Before the Tribunal, on the side of the Petitioner claimant, two witnesses were examined as P.W.1 and P.W.2 and 18 documents were marked as Ex.P1 to Ex.P18. On the side of the respondents, one Devi Sree Nachiyar, the Legal Officer of the second respondent office was examined as R.W.1 and three documents were marked as Ex.R1to Ex.R3. Besides that, Disability Certificate of the Petitioner was marked as Ex.C1 and Copy of the Aadhaar Card of the Petitioner was marked as Ex.X1. On appreciation of both oral and documentary evidence, the Tribunal awarded a sum of Rs.7,62,172/- as compensation to the claimant. Aggrieved over the same, the appellant-Insurance Company has filed this appeal.

5.Mr.N.Shyllappakalyan, learned counsel for the appellant vehemently argued that it is due to the rash and negligent driving of rider of the two wheeler, the accident occurred and the liability is fixed mainly on the driver of the four wheeler is incorrect and hence, the second respondent Insurance Company is not liable to pay the compensation.



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6.Ex.R3 is the copy of the Rough Sketch. It is the evidence of P.W. 1(Claimant) that on 22.6.2018 at about 7.20 p.m. when he was proceeding in the two wheeler bearing Registration No.TN 78 V 7008 along Dharapuram to Pollachi Main Road, at that point of time near Kottamuthampalayam Pirivu Road, while he was proceeding towards west to eastern side towards left side of the road, a Swaraj Mazda vehicle bearing Registration No.TN 48 B 8851 came on high speed in a rash and negligent manner crossed the center median and hit against the two wheeler. Due to the said impact, he was thrown out from the two wheeler and fell down on the mud road and sustained serious injuries. During his cross examination, no details as to the manner in which the accident has taken place was elicited by the second respondent side.

7. On the claimant's side, P.W.2 one Samson Jebaraj has been examined as an ocular witness. He has deposed that while he was travelling in the opposite direction from west to eastern side and it is the Swaraj Mazda four wheeler(TN 48 B 8851) which was proceeding ahead of his vehicle, hit the two wheeler due to the rash and negligent driving of the driver. No eye-witness was examined on the respondents side. More so, nothing adverse to the case of claimants was also



elicited through P.W.1 and P.W.2.

8. Based on the evidence of P.W.1 and P.W.2, the Tribunal has come to the conclusion that it is because of negligent driving of the first respondent vehicle driver, the accident had occurred and rightly fastened the liability on the second respondent/Insurance Company. I find no perversity or illegality on the said finding of the Tribunal.

9. Based on the aforesaid discussions, the Civil Miscellaneous Appeal is liable to be dismissed and thereby the same stands dismissed.

i) The appellant-Insurance Company is directed to deposit the award amount, as ordered by the Tribunal, with accrued interest and costs to the credit of claim petition before the Tribunal, less the award amount, if any already deposited, within a period of eight weeks from the date of receipt of a copy of this order.

ii) On such deposit being made, the first respondent/claimant is permitted to



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withdraw the award amount so deposited, less the award amount, if any already withdrawn, by filing necessary application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

04.11.2024

NCS : Yes/No
Index : Yes / No
Internet : Yes / No
vsn

To

The Motor Accidents Claims Tribunal
(Principal Sub-Judge),
Palani.

Copy to

The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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R.KALAIMATHI,J.

vsn

JUDGMENT MADE IN

C.M.A(MD)No.1270 of 2024

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C.M.P(MD)No.13515 of 2024

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