



C.M.A(MD)No.466 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.08.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.466 of 2018

and

C.M.P(MD)No.5566 of 2018

The Branch Manager,
United India Insurance Company Limited,
28, Mailam Salai,
Meenakshi Complex,
2nd Floor,
Tindivanam-604 001.

... Appellant/2nd Respondent

Vs.

1.Manikandan

... 1st Respondent/Petitioner

2.Nagendran

... 2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 29.01.2018 passed in M.C.O.P.No.61 of 2014 on the file of the Motor Accident Claims Tribunal (Special Sub Judge), Dindigul.

For Appellant : Mr.G.Prabhu Rajadurai

R-1 : Dispensed with

R-2 : Dismissed for default



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JUDGMENT

The instant appeal has been filed by the Insurance Company challenging the award passed by the Motor Accident Claims Tribunal / Special Sub Judge, Dindigul in M.C.O.P.No.61 of 2014, primarily challenging the fixing of negligence on the part of their insurer.

2. According to the injured claimant, while he was driving a two-wheeler on 26.04.2013, a TATA 407 vehicle owned by the first respondent and insured with the second respondent came in the opposite direction in a rash and negligent manner and dashed against his two-wheeler. This has resulted in causing serious injuries to him and he has prayed for a sum of Rs.8,00,000/- as compensation.

3. The Insurance Company of TATA 407 has filed a counter contending that the accident has taken place only due to the fact that the rider of the two-wheeler came in the wrong direction. They have also filed an additional statement of objections to the effect that the claimant has not followed the traffic rules and he had consumed Alcohol at the time of driving.



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4. The Tribunal after considering the evidence on either side has arrived at a finding that the accident has taken place only due to the rash and negligent driving on the part of the driver of TATA 407 van and has proceeded to fix the compensation at Rs.4,05,000/-. Challenging the said award, the present appeal has been filed.

5. According to the learned Counsel appearing for the appellant, the rider of the two-wheeler, who is the injured claimant had proceeded in the wrong direction of the road and he had consumed alcohol at the time of the accident and therefore, the Tribunal was not right in mulcting the liability upon their insured person, namely, the owner of TATA 407 van. He further contended that the order of conviction passed by the criminal Court cannot be taken into consideration for the purposes of fixing negligence before the Motor Accident Claims Tribunal. Hence, he prayed for allowing the appeal.

6. The respondents in the claim petition are yet to be served. However, this Court is of the considered opinion that there are no merits in the appeal and proceeds to pass orders on merits.



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7. The police official, who had registered the FIR has been examined as R.W.2. From his evidence, it could be seen that the rider of TATA 407 van has appeared before the criminal Court and admitted his liability and paid a fine of Rs.2,000/-. The Tribunal has relied upon the judgment of this Court reported in **2017 ACJ 1514 [M.Balaji and Others Vs. S.Venkatachalam and Others]** to effect that incase if a driver of the vehicle had appeared before a criminal Court and admitted his liability, the same can be used as an evidence in the claim proceedings. Therefore, it is clear that when the driver of TATA 407 has admitted his negligence and paid a fine before the criminal Court, the Tribunal was right in arriving at a finding that the accident has taken place only due to the negligence on the part of the driver of TATA 407.

8. Though it is contended that the rider of the two-wheeler was in a drunken mood at the time of accident, no documents have been filed to the said effect.

9. As far as the quantum of compensation is concerned, this Court does not find, the quantum of the award is anyway excessive or on the



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higher side. In such circumstances, there are no merits in the appeal and the appeal stands dismissed. There shall be no order as to costs.

Consequently, connected Miscellaneous Petition stands closed.

01.08.2024

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

To

- 1.The Motor Accident Claims Tribunal
(Special Sub Judge),
Dindigul.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J.

BTR

Judgment made in
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