



C.M.A.(MD)No.510 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : **11.09.2024**

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A(MD)No. 510 of 2024

Sadham Husain

... Appellant/Petitioner

Vs.

1.Muthu Selvam

2.The Branch Manager,
United India Insurance Company Ltd.,
No.5719, Sathyamoorthy Road,
New Bus Stop Opp,
Pudukottai Town and District.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 12.08.2021 passed in M.C.O.P.No.128 of 2009 on the file of the Motor Accident Claims Tribunal Judge (Additional Subordinate Judge) Pudukottai.

For Appellant : Mr.R.Balakrishnan

For R1 : Mr.P.Ganapathi Subramanian

For R2 : Mr.A.Shajahan



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JUDGMENT

The instant appeal challenges the dismissal of the claim petition.

2. The appellant, being a minor, who was aged 15 years at the time of the accident, filed a claim petition stating that while he was riding his bike from east to west near Manchanvidhuthi Vilaku Road, the offending vehicle insured with the 2nd respondent came in a rash and negligent manner and dashed against the appellant's two-wheeler, as a result of which, he sustained grievous injuries.

3. The 1st respondent, the rider of the offending vehicle, remained exparte before the Tribunal.

4. The 2nd respondent filed a counter stating that the accident took place only due to the negligence of the appellant/minor boy, who rode the two-wheeler without license, and a first information report was registered against the appellant, and hence, the 2nd respondent was not liable to pay compensation.



5. The claimant examined P.W.1 and P.W.2 and marked Ex.P.1 to Ex.P.9. The 2nd respondent examined R.W.1 and R.W.2 and marked Ex.R.1 to Ex.R.5.

6. The Tribunal, after taking into consideration the oral and documentary evidence, held that the appellant was the tort-feasor and had not established the negligence on the side of the vehicle belonging to the 1st respondent herein and that therefore, the appellant was not entitled to compensation.

7. The learned counsel for the appellant submitted that though the appellant had examined himself as P.W.1 and another witness as P.W.2, the Tribunal erroneously dismissed the claim petition in the absence of any contra evidence produced on the side of the respondents and submitted that the appellant had sustained severe injuries, for which, he has to be compensated.

8. The learned counsel for the 1st respondent per contra submitted that after completion of the investigation, a final report was filed against the appellant; the admission of the appellant in the cross-examination



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would show that the 1st respondent is not liable for the rash and negligent riding of the appellant; and therefore, the order of the Tribunal is justified.

9. This Court gave its anxious consideration to the submissions made by the learned counsel for the appellant, the learned counsel for the 1st respondent and the learned counsel for the 2nd respondent. This Court has also carefully perused the materials available on record.

10. The only point for consideration in the instant appeal is whether the finding on negligence by the Tribunal is justified.

11. It is seen from the records that though the appellant examined himself as P.W.1 and another witness as P.W.2, the admission made by the appellant in the cross-examination suggests that the 1st respondent had ridden the vehicle in a careful manner; and that the accident took place only due to the rash driving of the appellant. The relevant portion of the evidence of P.W.1 in this regard, which was extracted by the Tribunal in the order, would confirm the said fact. That apart, Ex.R.4, the final report filed by the police before the concerned jurisdictional



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Magistrate would show that it was the appellant, who had ridden the two-wheeler in a rash and negligent manner. Admittedly, the appellant, being the minor, without license had ridden the two-wheeler. The nature of the accident and the evidence on record would clearly show that the appellant was the tort-feasor. In such circumstances, the order of the Tribunal dismissing the claim petition is justified and hence, confirmed.

9. In the result, the appeal is dismissed. No costs.

11.09.2024

Index : Yes / No
Neutral Citation : Yes / No
CM

To
1. Motor Accident Claims Tribunal Judge
(Additional Subordinate Judge) Pudukottai.

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



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SUNDER MOHAN, J.

CM

Judgment made in
C.M.A(MD)No. 510 of 2024

11.09.2024