



C.M.A(MD)No.46 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.03.2024**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.46 of 2024

and

C.M.P.(MD)No.720 of 2024

Kumar

... Appellant

Vs.

1.Logumani

2.Karpagam

3. Krishnaveni

4. Dinakaran

5. M/S.Iffco Tokio

General Insurance Company Ltd.,
represented by its Division Manager,
No.82, Pritham Plaza,
Ground Floor and First Floor,
Chandragandi Nagar,
Ponmeni, Madurai - 625 016.

... Respondents



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PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, to call for records and set aside the order dated 21.06.2023 made in M.C.O.P.No.373 of 2018 on the file of the Hon'ble Special District Court (Motor Accident Claims Tribunal), Madurai forthwith.

For Appellant : Mr.J.Sankarapandian

For R-1 : No appearance

For R-5 : Mr.V.Sakthivel

JUDGEMENT

The appellant herein is the owner of the car, who remained ex-party before the Tribunal.

2.It is the case of fatal. The contention of the appellant is that he was travelling from North to South. The deceased Subbiah was travelling in a two-wheeler as pillion rider was coming from West to East in the Highway Road. The deceased while driving the two-wheeler has used the meridian and was trying to cross the Highway. When the two-wheeler



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was trying to cross the meridian, the car hit the two wheeler.

3.The claimant ought to have impleaded the driver of the two-wheeler as one of the parties. In such circumstances, the liability would be fixed on the two-wheeler and the two wheeler's Insurance Company would have shared the liability.

4.However, the contention of the fifth Respondent Insurance Company is that the appellant car was not insured with them and it is a fake policy and the said issue has already been decided by the Tribunal. If the matter is remitted back without touching this issue, then he has no objection in remitting the issue. However, the issue against the fifth respondent that the policy of the appellant is fake is confirmed and the same shall not be reopened.

5.Hence, the matter is remitted back to the Tribunal only for the negligence of the two-wheeler and its insurance company alone. The appellant shall implead the driver of the two wheeler as necessary party



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and contest the case. As far as the issue of the two wheeler is concerned, the entire issue is left open for adjudication before the Tribunal.

6.With the above said modification, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

25.03.2024

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

To

The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

jbr

Order made in
C.M.A(MD)No.46 of 2024

25.03.2024