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CMA.(MD)No.587 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

|                    |            |
|--------------------|------------|
| Date of Reserved   | 31/07/2024 |
| Date of Pronounced | 03/09/2024 |

**CORAM**

The Hon'ble Mr.Justice **G.ILANGO VAN**

**CMA (MD) No. 587 of 2024**

**and**

**CMP (MD) No. 7423 of 2024**

National Insurance Company Limited,  
Jerome Building, First Floor,  
Fort Station Road,  
Trichy-2.

: Appellant/2<sup>nd</sup> Respondent

Vs.

1.V.Balasubramanian  
2.Alla Pitchai

: 1<sup>st</sup> Respondent/Claimant  
: 2<sup>nd</sup> Respondent/2<sup>nd</sup> Respondent

**PRAYER:-**Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the fair and decreetal order made in MCOP No.5 of 2002 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Trichy dated 02/02/2007.

For Appellant : Mr.J.S.Murali

For 1<sup>st</sup> Respondent : M/s.J.Maria Roseline

For 2<sup>nd</sup> Respondent : No appearance



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**JUDGMENT**

This civil miscellaneous appeal is filed seeking to set aside the fair order and decreetal order, passed in MCOP No.5 of 2002, dated 02/02/2007 by the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Trichy.

**2.The facts in brief:-**

The petitioner was returning to Tiruchur after unloading the goods in the Lorry bearing registration No.TN-45-A-3965 on the Paliakkara road. At that time, another vehicle bearing registration No.TN-28-F-1665 dashed against the vehicle driven by the petitioner. He sustained grievous injuries. He was taken to a private hospital in Tiruchur and took treatment as inpatient for about 15 days. Later admitted in a private Nursing Home at Woriyur, Trichy. Claiming compensation of Rs.1,50,000/-, he filed a petition stating that he could not continue his work as before.

3.That was resisted by the Appellant Insurance Company stating that in the accident, both vehicles got damaged. The petitioner's vehicle insurance particulars are not available and the insurer is also not added as a party. Since the petitioner was responsible for the accident, the case was registered against him. So, he is



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not entitled for any compensation. Apart from that,  
customary denials were made.

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4.Before the Tribunal, on the side of the claimant,  
2 witnesses were examined and 10 documents were marked.  
On the side of the Insurance Company, no oral and  
documentary evidence was adduced.

5.Regarding the first aspect of negligence, the  
Tribunal recorded a finding that it occurred due to the  
rash and negligence on the part of the offending vehicle  
driver. Even though, the case was registered against the  
petitioner, he can claim compensation under the  
provisions of the Motor Vehicles Act, apart from invoking  
the provisions of the Workmen's Compensation Act.  
Regarding compensation amount, totally Rs.72,000/- was  
awarded as compensation.

6.Against which, this civil miscellaneous appeal is  
preferred by the Insurance Company, after huge delay.

7.Heard both sides.

8.The learned counsel appearing for the appellant  
would submit that the petitioner is a tort-feasor in the



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occurrence. So he is not entitled for any compensation under section 163-A of the Motor Vehicles Act.

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9.10.Per contra, the learned counsel appearing for the first respondent would submit that only Rs.72,000/- was awarded as compensation and the accident is of the year 30/09/2000. The award was passed in 2007. At the length of this time, no interference is called for.

10.Regarding the maintainability of the petition, now the law is developed to the position that for claiming compensation under section 163-A of the Motor Vehicles Act, another vehicle or third party vehicle might have also be involved. Section 163-A of the Act speaks about no fault liability. Without proving the negligence on the part of the third party vehicle or offending vehicle as the case may be, claim can be made. But here, the position is not like that. A criminal case was registered against the claimant. In that petition, he has stated that only because of the rash and negligence on the part of the first respondent vehicle driver, the occurrence took place. But the Tribunal has found that in spite of the above said registration of the FIR against the claimant, claim will lie under section 163-A of the Act, apart from the claim as per the provisions of the



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Workmen's Compensation Act. Even though conclusion reached by the Tribunal is not proper, but the fact remains that only Rs.10,000/- was awarded towards the injuries suffered by the claimant. Rs.52,000/- was awarded on the basis of the medical bills. Even if the petitioner approaches the Workmen's Compensation Tribunal, that would have been decided in favour of the claimant, considering the nature of the injuries suffered by him.

11.Since it is admitted by the claimant himself that he is working as driver under the first respondent, at the length of time, I am of the considered view that the award of the Tribunal does not call for any interference for the reasons stated above. It is also not equally appropriate on the part of this court to direct the claimant to approach the Workmen's Compensation Tribunal at this length of time.

12.In the result, this civil miscellaneous appeal is **dismissed**. No costs. Consequently, connected Miscellaneous Petition is closed.

03/09/2024

Index:Yes/No  
Internet:Yes/No  
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To,

1.The Motor Accident Claims Tribunal/  
Chief Judicial Magistrate,  
Trichy.

2.The Section Officer,  
ER/VR Section,  
Madurai Bench of Madras High Court,  
Madurai.



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G.ILANGO VAN, J

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