



C.M.A(MD)No.506 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **30.09.2024**

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A(MD)No.506 of 2022
and
C.M.P(MD)No.10766 of 2024

John Peter @ Sebast John Peter ... Appellant/Petitioner

Vs.

1.A.Ravikumar ... 1st Respondent/1st Respondent

2.The Manager,
Cholamandalam MS General Insurance
Company Limited,
Dare House 2nd Floor,
NSC Bose Road,
Chennai. ... 2nd Respondent/2nd Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the compensation awarded by the learned Motor Accident Claims Tribunal cum Principal Sub Judge, Dindigul in M.C.O.P.No.201 of 2014, dated 27.08.2015 and allow this appeal.

For Appellant : Mr.DR.R.Rajagobal

For R-1 : Mr.J.M.Hassanul Bazari

For R-2 : M/s.K.R.Shivashankari
for M/s.A.Muthu Sumina



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JUDGMENT

The Civil Miscellaneous Appeal has been filed by the claimant challenging the finding on liability.

2. The facts leading to the filing of claim petition for the disposal of the appeal are as follows:

The appellant filed the claim petition stating that while he was travelling in a Mahindra Pickup Van, the driver of the vehicle drove in a rash and negligent manner and as a result of which, the van got capsized and the appellant sustained grievous injuries. The owner of the Mahindra Pickup Van, who is the first respondent herein remained *ex parte* before the Tribunal. The second respondent filed a counter stating that the appellant was un-authorized passenger in the goods vehicle and hence, they are not liable to pay compensation.

3. The Tribunal after taking into consideration oral and documentary evidence found that the appellant has not established that he was an employee under the first respondent and since he was an un-authorised passenger, the second respondent herein being the insurer of the vehicle is not liable to pay compensation and directed the first



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respondent herein to pay a compensation of Rs.3,82,110/-.

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4. The learned Counsel for the appellant submitted that the appellant is not an un-authorised passenger and was working as a Carpenter under the first respondent.

5. The learned Counsel for the first respondent, who remained *ex parte* before the Tribunal however, submitted that the appellant was employed under him.

6. The learned Counsel for the second respondent submitted that since the first respondent remained *ex parte* before the Tribunal and he has been directed to pay compensation, he had come up with the false plea that the appellant is employed under him and therefore, the appeal has to be dismissed.

7. This Court finds that there is no dispute with regard to the fact that the appellant is entitled to compensation. If the appellant is not an un-authorized passenger, then the second respondent would be liable to pay compensation. The first respondent herein remained *ex parte* before



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the Tribunal. The appellant had also not produced any evidence to show that he was employed under the first respondent. However, in the interest of justice, this Court is of the view that it would be desirable, that the matter is remitted back to the Tribunal for adjudication of the issue as to whether the first respondent or the second respondent would be liable to pay compensation. It would be open to the appellants and the respondents to produce such evidence as may be necessary to prove their respective cases. The Tribunal shall decide this question alone, namely, as to whether the first respondent or the second respondent would be liable to pay compensation on the basis of the evidence adduced by all the parties, within a period of two (2) months from the date of receipt of a copy of this order.

8. With the above observation, this Civil Miscellaneous Appeal is ordered accordingly. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

30.09.2024

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



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To

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



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SUNDER MOHAN, J.

BTR

Judgment made in
C.M.A(MD)No.506 of 2022

30.09.2024