



WEB COPY

CMA No. 1518 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-07-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1518 of 2023

and

CMP.No.15487 of 2023

1. U/s.United India Insurance Co Ltd
104, Ranga Buildings, Peramanur Main
Road, Near 4 Road, Salem District.

Appellant(s)

Vs

1. SAROJA
W/o Natarajan, Res at No 1/50A,
Pillaiyarkoil Street, Gejjalnaickenpatty,
Salem District.

2.Dinesh Babu
S/o Natarajan, Res at No 5-97/1-50,
Pillaiyarkoil Street, Gejjalnaickenpatty,
Salem District.

Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Section 173 of MV Act, 1988, praying to set aside the award and decree dated 04.12.2021 made in MCOP No.489/2019 on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.II, Salem.

For Appellant(s): Mr. S.Arun Kumar

For Respondent(s): R1 And R2 - No Appearance



JUDGEMENT

Challenging the award passed by the Tribunal, the appellant has preferred this appeal.

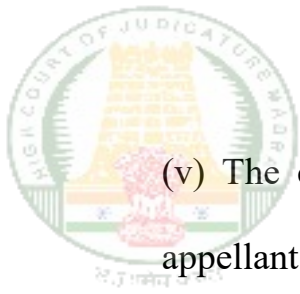
2. The learned counsel for the appellant / 2nd respondent raised the following grounds:

(I) The award and decree of the claims tribunal is contrary to law, weight of evidence and probabilities of the case.

(ii) The claims tribunal erred in holding the appellant liable to pay a sum of Rs.3,01,160/- in spite of the fact the accident has not occurred due to negligence of the alleged rider.

(iii) The claims tribunal failed to note that the first respondent fell down on 08.12.2018, discharged on 16.12.2018 and the complainant husband of the first respondent and son second respondent herein jointly conspired and filed a belated complaint on 22.12.2018 falsely alleging that she fell down and sustained injuries due to rash and negligent riding of her son. In fact untenable claim is laid as an afterthought to make an unlawful gain to meet out the medical expenses incurred.

(iv) The claims tribunal erred in not properly appreciating the categorical admission of P.W.1 / first respondent Ex.R1 and Ex.P6.



(v) The claims tribunal failed to note that the judgement relied to hold the appellant liable is not rendered in similar circumstances more particularly when first respondent has admitted that she fell down as she felt giddiness.

(vi) The claims tribunal ought to have dismissed the claim totally that she fell down on her own the incident is not a road traffic accident.

(vii) The other reasons assigned by the claims tribunal in support of the award are untenable.

3. The learned counsel for the appellant submitted that by her own statement, the claimant admitted that the 1st respondent / petitioner fell down from the two-wheeler. In support of this, the insurance company relied upon a letter received from the petitioner, which was given by the claimant herself.

4. On a perusal of the recitals, it is revealed that, due to certain clandestine circumstances, at the time of the alleged incident, it was her son who was riding the two-wheeler. However, he was not examined as a witness. Therefore, the entire incident did not occur as a result of an accident but due to those clandestine circumstances, causing her to fall down. Hence, there was no negligence on the part of the driver.



5. Therefore, the Tribunal, without properly appreciating all the facts and circumstances of the case, has erroneously passed the award, which is liable to be set aside. Accordingly, this Civil Miscellaneous Appeal is allowed. Consequently, the connected miscellaneous petition is closed.

02-07-2025

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
rri



To

1.SAROJA

W/o Natarajan, Res at No 1/50A,
Pillaiyarkoil Street, Gejjalnaickenpatty,
Salem District.

2.Dinesh Babu

S/o Natarajan, Res at No 5-97/1-50,
Pillaiyarkoil Street, Gejjalnaickenpatty,
Salem District.

3.The Motor Accidents Claims
Tribunal, Special Sub Court No.II,
Salem.

4.The Section Officer,
VR Section, High Court of Madras.



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T.V.THAMILSELVI J.
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