



CMA.No.3545 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.04.2025

PRONOUNCED ON :02.06.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

**CMA.No.3545 of 2021
and CMP.No.20582 of 2021**

The Branch Manager,
United India Insurance Company Limited,
Manjakuppam, Cuddalore.

... Appellant

Vs.

1.S.P.Sakunthala
2.Ezhularasan

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the award and decree dated 24.10.2019 made in MCOP.No.21 of 2017 on the file of the Motor Accident Claims Tribunal, (Principal Subordinate Judge), Virudhachalam.

For Appellant

:Mr.S.Arunkumar

For Respondents

:Mr.T.Chezian
for M/s.R.Meenal for R1
No Appearance for R2



CMA.No.3545 of 2021

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J U D G M E N T

The Civil Miscellaneous Appeal has been filed challenging the award passed by the Motor Accident Claims Tribunal (Principal Subordinate Judge), Virudhachalam directing the appellant to pay a sum of Rs.2,07,471/-to the first respondent/claimant towards the compensation for the damage suffered to her vehicle in an accident involving van belongs to the second respondent insured with the appellant.

2. It is the case of the first respondent/claimant that she is the owner of the Toyota Innova Car insured with Trichy Branch of appellant insurance company. When she was proceeding in her Toyota Innova Car on 21.04.2014 from Cuddalore to Virudhachalam, Tata van belonged to the second respondent insured with the appellant came in a rash and negligent manner and dashed against the first respondent's Toyota Innova Car from back side. Due to the impact created by the accident, the first respondent's car dashed against a trailer, which was in front of her vehicle. Thus the first respondent's Toyota Innova Car was damaged on both front and rear side. After the accident, the first respondent handed over her car for repair in



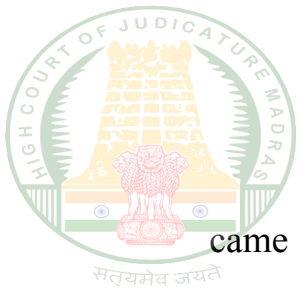
CMA.No.3545 of 2021

Lanson Motors, Puducherry. The first respondent spent about Rs.4,64,471/-

to repair her vehicle and make it road worthy. After paying the above said amount to Lanson Motors, the first respondent made a claim against insurer namely the Trichy Branch of appellant Insurance Company and they paid only Rs.2,57,000/-. Therefore, the first respondent laid a claim for recovery of balance amount of Rs.2,07,471/- which was spent by her towards repairing of the vehicle against the owner and insurer of the offending vehicle namely Tata Van.

3. The second respondent owner of Tata Van remained ex-parte and the claim petition was resisted by the appellant herein. The appellant denied the claim made by the first respondent that she spent about Rs.4,64,471/- towards repairing of the damaged car. It was further stated by the appellant that the first respondent at the time of receiving Rs.2,57,000/- from her insurer namely the Trichy Branch of appellant company agreed not to make any further claim towards repairs. Therefore, the appellant sought for dismissal of the claim petition.

4. The Tribunal based on the evidence available on record



CMA.No.3545 of 2021

came to the conclusion that accident had occurred due to the negligence on the part of the driver of the Tata Van insured with the appellant. The Tribunal directed the appellant to pay a sum of Rs.2,07,471/- towards loss suffered by the first respondent in repairing the car. Aggrieved by the said award, the appellant has come before this Court.

5. The learned counsel appearing for the appellant submitted that as per Ex.R10-Insurance Policy of the first respondent's vehicle, declared value was only Rs.3,70,000/-. In that case, the claim made by the first respondent, as if, she incurred an expenditure of Rs.4,64,471/-, over and above the declared value of the vehicle is unacceptable. Therefore, he sought for allowing of the appeal by confining the award passed by the Tribunal at least to the extent of declared value of the first respondent in the Insurance Policy.

6. The learned counsel appearing for the first respondent would submit that the documentary evidence available on record clearly proved that the first respondent incurred an expenditure of Rs.4,64,471/- in repairing the car damaged by the negligent act of the driver of the vehicle insured with the appellant and hence the first respondent is entitled to



CMA.No.3545 of 2021

recover the entire expenditure incurred by her.

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7. A perusal of Exs.P2 and P3 would indicate Lanson Motors, who repaired the damaged car of the first respondent issued invoices to the tune of Rs.4,64,471/-. Exs.P4 and P5 are the receipts issued by the Lanson Motors for having received a sum of Rs.4,64,471/- from the first respondent towards repairing of the car. Therefore, evidence of PW.1 coupled with Exs.P4 and P5 categorically established that the first respondent incurred an expenditure of Rs.4,64,471/- towards repairing of her car, which was damaged by negligent driving of the driver of Tata Van belonged to the second respondent and insured with the appellant.

8. Ex.R11 would establish that the first respondent was paid by her insurer namely Trichy Branch of appellant company a sum of Rs.2,57,000/- under the head own damage. Therefore, it is clear that the first respondent incurred a loss of Rs.2,07,471/- in repairing the car due to the damage caused by the accident. The Tribunal based on evidence of PW.1 and contents of FIR marked as Ex.P1 came to the conclusion that the accident had occurred due to the negligence on the part of the driver of the Tata Van insured with the appellant and the said factual finding has not



CMA.No.3545 of 2021

been impugned before this Court. Therefore, as insurer of Tort-feasor's vehicle, the appellant is liable to compensate the loss incurred by the first respondent in repairing the vehicle. As stated earlier, already the first respondent has received a sum of Rs.2,57,000/- from her insurer, therefore, the net loss to the first respondent, which is payable by appellant is only Rs.2,07,471/-.

9. It is vehemently contended by the learned counsel for the appellant that as per Ex.R10 insurance policy issued to first respondent by Trichy Branch of appellant company, the declared value of first respondent's Toyota Innova Car was only Rs.3,70,000/-. The expenses incurred by the first respondent for repairing the vehicle exceeds the declared value of the vehicle. It is the submission by the learned counsel that no prudent person would spend more amount than the declared value of the vehicle in repairing the same.

10. In nutshell, it is the submission of the appellant, if at all, the appellant can be directed only to pay the declared value of the vehicle after deducting the salvage amount.



CMA.No.3545 of 2021

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11. The Toyota Innova car belonging to the first respondent was damaged due to the negligence of the driver of the Tata van, which was insured with the appellant. In the absence of the tortious act of the driver of the Tata van, the first respondent's vehicle would not have lost its roadworthiness and there would have been no need for her to undertake repairs. Due to the accident, the vehicle suffered extensive damage in the rear as well as front portion and in repairing the vehicle and bringing it back to the road worthy condition, the first respondent incurred an expenditure of Rs.4,64,471/- and the same is very much established by Exs.P4 and P5 receipts issued by Lanson Motors. As an insurer of tort-feasor's vehicle, the appellant is bound to compensate the actual expenditure incurred.

12. Even in the Motor Survey report of appellant Surveyor, the estimate for repairing the vehicle was arrived at Rs.4,53,650/-. Therefore, even as per the assessment of Surveyor appointed by appellant, the amount required for repairing the vehicle was arrived at Rs.4,53,650/-. In the light of Exs.P4 and P5, it is clearly proved that the first respondent paid a sum of Rs.4,64,471/- to the Lanson Motor who repaired the vehicle. As per Ex.R3,



CMA.No.3545 of 2021

the value of the salvage was mentioned Rs.8,500/- and the same shall be deducted from the amount paid by the first respondent apart from the amount received by the first respondent from her insurer. Therefore, the amount payable to the first respondent is arrived as follows.

(i) Total amount paid by first respondent as per Exs.P4 and P5 is Rs.4,64,471/-.

(ii) From the said total expenditure, the amount received by her from insurer [i.e Rs.2,57,000/-] and the value of salvage (as per Ex.R3) Rs.8,500/- shall be deducted. (Rs.4,64,471-[2,57,000+8500]=Rs.1,98,971/-)

13. Therefore, the appellant is liable to pay Rs.1,98,971/- to the first respondent, being the insurer of the offending vehicle. The appellant is not entitled to argue that the first respondent can claim only the declared value of the vehicle ignoring the actual amount spent by her to restore the vehicle to road worthy condition. Hence, the submission made by the learned counsel for the appellant is rejected and the appellant is directed to pay a sum of Rs.1,98,971/-, after deducting the amount received by the first



CMA.No.3545 of 2021

respondent from her insurer and the value of the salvage.

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14. The Civil Miscellaneous Appeal is partly allowed to the extent mentioned above and the award is modified by directing the appellant to pay a sum of Rs.1,98,971/- to the first respondent. Consequently, connected miscellaneous petition is closed. No costs.

02.06.2025

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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To

1. The Motor Accident Claims Tribunal,
(Principal Subordinate Judge), Virudhachalam.

2. The Section Officer
VR Section, High Court, Madras.



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CMA.No.3545 of 2021

S.SOUNTHAR, J.

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Pre-delivery order made in
CMA.No.3545 of 2021

02.06.2025

10/10