



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-06-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1589 of 2023

National Insurance Company Limited
Rep by its Manager, 157/1, Deepam
Complex, Opposite Aavin Dairy,
Bharathi Nagar, Near Vasavi college,
Suriyampalayam

Appellant

Vs

1. Prakash Alias Udhayaprakash
S/o Govindan, No.2/139, Mettukadai,
Velan Nagar, Pallipalayam, Agraharam,
Tiruchengode, Namakkal District

2.B.R.Balaji
s/o Rangaraj, No.401, Salem Main
Road, Komarapalayam, Tiruchengode
Taluk, Namakkal District

Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Sec. 173 of Motor Vehicles Act, praying to set aside the decree and judgment passed in MACT OP No.240 of 2019 dated 30.03.2023 on the file of the Motor Accidents Claims Tribunal, IV Additional District and Sessions Court, Erode at Bhavani



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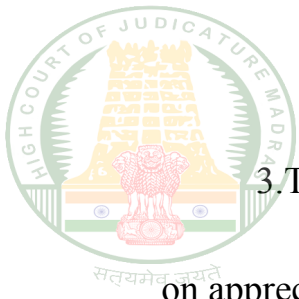
For Appellant: Ms. N.B.Sureka

For Respondents: Mr. Ma.P.Thangavel For R1
R-2 - No Appearance

JUDGMENT

The 2nd respondent insurance company has filed the present appeal challenging the Award passed by the Motor Accident Claims Tribunal, 4th Addl. District and Sessions Judge, Erode at Bhavani in MCOP No.240 of 2019, dated 30.03.2023.

2.The case of petitioner is that on 12.04.2019 at about 06.15 p.m., when the petitioner riding his motorcycle bearing Regn. No.TN-54-Q-8833 on the left side of Komarapalayam to Katheri Pirivu Road towards east to west, nearing power office, at that time, a bus bearing Regn.No.TN-34-AC-1515 belong to 1st respondent came in a opposite direction in a rash and negligent manner, hit the petitioner's vehicle and caused the accident. Due to which, the claimant sustained injuries, for which he underwent treatment in the hospital. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.5,00,000/-.

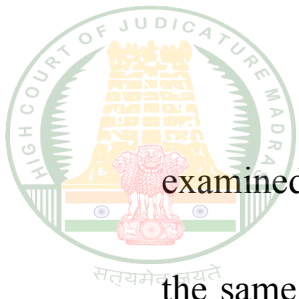


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3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the negligence on the part of the bus driver. Having rendered such a finding, the Tribunal fixed the total compensation payable at Rs.2,14,760/- under various heads and the same was directed to be paid with interest at the rate of 7.5% per annum. Aggrieved by the quantum of compensation fixed by the Tribunal, the 2nd respondent Insurance Company has preferred the present appeal before this Court.

4. Heard and considered rival submissions made by learned counsel appearing for appellant and learned counsel appearing for 1st respondent and perused the materials available on record.

5. The learned counsel for the appellant Insurance Company would submit that on the date of alleged accident, the claimant/1st respondent was under the influence of alcohol and driven the two wheeler in a rash and negligent manner, due to which he fell down on the right side. On seeing that, the driver of the bus stopped the vehicle. So, there is no negligence on the part of 1st respondent vehicle. Since the driver was died in covid, the conductor of the bus was



examined as R.W.2 to prove the said fact, but the tribunal failed to appreciate the same and fixed only 20% contributory negligence on the side of petitioner as such is illegal and liable to be set aside.

6. By way of reply, the learned counsel for 1st respondent/petitioner argues that the bus was driven in a wrong direction, thereby the accident was happened and there is no negligence on the part of petitioner as alleged by the appellant herein. But, as per the evidence of R.W.2, at the time of alleged accident, the claimant was under the influence of alcohol and even as per the final report given by the police marked as Ex.R1 shows that he was under the influence of alcohol. Furthermore, the petitioner was immediately admitted in the Government hospital, Komarapalayam and then shifted to private hospital, to prove the same, Government hospital AR copy was not produced. Therefore, the objections raised by the appellant is sustainable one, since because he was under the influence of alcohol, F.I.R. copy was not produced as such is not acceptable. Therefore, the contributory negligence on the part of claimant is to be taken into consideration. Accordingly, 40% of contributory negligence was fixed on him and 60% was fixed upon 1st respondent and The compensation that has been



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fixed under the other heads are reasonable and does not require the interference of this Court. The appellant insurance company is directed to deposit the compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of copy of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12-06-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, IV Addl. District and Sessions Court, Erode at Bhavani.

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



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T.V.THAMILSELVI J.

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