



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 24.01.2025
CORAM**

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Civil Miscellaneous Appeal No.3244 of 2024
and CMP. No.27158 of 2024**

The Chairman of
St. Josephs Polytechnic College,
Periya Panamutlu, T.V.Malai Road,
Anchoor Post,
Krishnagiri Taluk and District.

... Appellant

Vs.

1.Prasath

2. Chola MS General Insurance Co. Ltd.,
Rep. By its Branch Manager,
Dare House, 2nd Floor, NSC Bose Road,
Chennai-1.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree in M.C.O.P.No.241 of 2018 dated 27.08.2021 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Krishnagiri.

For Appellant : Mr.C.Jagadish

For Respondents : Mr.Micheal Visuvasam R2

JUDGMENT



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The appellant has filed the present appeal against the award passed by Motor Accident Claims Tribunal in M.C.O.P.No.241 of 2018 dated 27.08.2021 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Krishnagiri.

2. The case of the claimant is that on 21.11.2017, when the first respondent was riding his two wheeler near Om Shakthi Hospital, Krishnagiri, at that time, a van was driven by its driver, which was owned by the appellant and insured with the second respondent, in the opposite direction in a rash and negligent manner and dashed front side of the motor cycle of the first respondent, due to which, the accident had happened and the claimant sustained injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

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 rash and



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negligent driving on the part of the driver of the van. The Tribunal thereafter proceeded to fix the total compensation at Rs.2,97,900/- under various heads and the Tribunal has awarded "Pay and recovery". On the sole ground, the present appeal has been filed.

4. The learned counsel for the appellant submitted that the Tribunal has passed the award directing the second respondent herein to pay compensation amount and recover the same from the appellant based on the misrepresentation made by the second respondent before the Tribunal. Admittedly, there is no policy violation and the Tribunal, on its own, fixed "Pay and recovery" . Hence, this Court may pass appropriate orders.

5. The learned counsel for the second respondent fairly submitted that the second respondent has already deposited entire compensation before the Tribunal. This Court may set aside the method "Pay and recovery" alone.

6. Heard the learned counsel for appellant/claimant and the learned counsel for 2nd respondent.

7. This Court has carefully considered the submissions made on



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either side and the materials available on record.

8. This Court also carefully went through the award passed by the Tribunal.

9. Considering the facts and circumstances of the case and also the submissions made on either side, this Court sets aside "pay and recovery" method alone. The other directions passed by the Tribunal is hereby confirmed.

10. In the light of the above discussion, this Appeal is partly allowed. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. Insofar as the quantum of compensation is concerned, the first respondent is entitled to with the entire compensation amount along with interest and costs. No costs. Consequently, connected miscellaneous petition is closed.

24.01.2025

rli

Speaking Judgment/Non-speaking Judgment



Index :Yes/No

Neutral citation: Yes/No

To,
Motor Accident Claims Tribunal,
Special Subordinate Judge, Krishnagiri.



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M.DHANDAPANI.,J
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