



CMA.No.2453 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 18.03.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.No.2453 of 2022

P.Muthukumar

... Appellant

Vs.

Rajendran (died)

1.New India Assurance Company Limited,
New Bus Stand,
Perambalur.

2.Manimegalai

3.Sinegalatha

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the award and enhance the compensation amount and fix the entire liability on the respondent made in judgment and decree dated 24.11.2021 made in MCOP.No.567 of 2015 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Perambalur by allowing the Civil Miscellaneous Appeal.

For Appellant : Mr.S.P.Yuaraj

For Respondents : Mr.P.Sankaranarayanan for R1
No appearance for R2 and R3



CMA.No.2453 of 2022

J U D G M E N T

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Aggrieved by the award passed by the Motor Accidents Claims Tribunal/Principal District Judge, Perambalur fixing compensation at Rs.25,000/-, the injured/claimant has come before this Court.

2. It is the case of the claimant that on 29.03.2015, he was riding TVS Star City two wheeler from West to East at Trichy, Waraiyur, Kulamani Road, Near Mangal Nagar. The TVS-XL Super two wheeler belonged to one Rajendran/the first respondent, therein and insured with the first respondent herein came in the opposite direction in a rash and negligent manner and dashed against the two wheeler of the claimant. As a result of the accident, the claimant received grievous injuries including fracture of his left leg. Therefore, the claim petition was filed seeking compensation of Rs.50,00,000/-.

3. Since the owner of the other two wheeler namely the first respondent therein died in the very same accident, his legal heirs were impleaded as the respondents 3 and 4 and they remained ex-parte. The first



CMA.No.2453 of 2022

respondent/Insurance company of of TVS-XL-Super two wheeler alone
filed counter denying the manner of accident as alleged in the claim
petition.

4. It is the case of the first respondent that the accident had occurred only due to the rash and negligent driving of the claimant and he being the tort-feasor is not entitled to maintain the claim petition.

5. The Tribunal based on the evidence available on record came to the conclusion that the accident had occurred only due to the negligence on the part of the claimant and hence the claimant was entitled to Rs.25,000/- under section 140 of Motor Vehicle Act on no fault liability. Aggrieved by the same, the claimant has come before this Court.

6. The learned counsel appearing for the appellant would submit that the evidence of PW.3-Eye Witness clearly established that the accident had occurred only due to the negligence on the part of the TVS -XL Super vehicle's driver and the Tribunal committed grave error in overlooking the said evidence.



CMA.No.2453 of 2022

WEB COPY

7. The learned counsel appearing for the first respondent/Insurance Company would submit that the Tribunal based on the evidence available on record rightly came to the conclusion that the negligence was on the part of the claimant and hence the award passed by the Tribunal need not be interfered.

8. In order to prove the negligence aspect, the claimant examined an eye witness as PW.3. He deposed that the accident had occurred only due to the rash and negligent driving of TVS-XL-Super two wheeler insured with the first respondent. In the claim petition, it was stated by the claimant, he was proceeding from West to East. A perusal of Ex.R2-rough sketch would indicate that the accident had occurred on the right extreme side of the road (southern portion of the road). Therefore, it is clear that the claimant failed to follow the traffic rules and came to the right hand side of the road by crossing middle line. When the accident had occurred on the wrong side (right hand side portion of the road), certainly the negligence is on the part of the claimant. In fact, the contents of EX.R1-FIR also points to the negligence on the part of the claimant. After



CMA.No.2453 of 2022

investigation, police filed charge sheet against the claimant under Ex.R3.

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There is no explanation on the part of the claimant as to why he had not preferred any police complaint. In these circumstances, taking into consideration, Ex.R1, R2 and R3, the Tribunal rightly came to the conclusion that negligence was on the part of the claimant, the said findings is based on proper appreciation of evidence available on record.

9. I do not find any ground to interfere with the findings of the Tribunal, accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.

18.03.2025

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

1.The Motor Accident Claims Tribunal
Principal District Judge, Perambalur

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

5/6



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CMA.No.2453 of 2022

S.SOUNTHAR, J.
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CMA.No.2453 of 2022

18.03.2025