



C.M.A.No.3535 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.3535 of 2024

P.Loganathan

... Appellant/Petitioner

Vs.

1. G.Murugan
2. HDFC ERGO General Insurance Company Ltd.,
4th Floor, Rajanarayanan Towers,
70, Race Course Road,
Coimbatore – 641 018.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award dated 02.01.2020 passed in M.C.O.P.No.1297 of 2016 on the file of the Forum of the Motor Accident Claims, (Special Subordinate Judge) Coimbatore.

For Appellant : Mr.T.Shanmugananda
Vijayakumar

For Respondents : Mr.K.Vinod for R2

JUDGMENT

The above appeal is filed by the appellant/claimant seeking to set



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aside the award dated 02.01.2020 passed in M.C.O.P.No.1297 of 2016 on the file of the Motor Accident Claims, (Special Subordinate Judge) Coimbatore)

2. It is the case of the appellant that, on 15.07.2016 at about 10.00 am, when the appellant was riding his two wheeler bearing Regn.No.TN-37-CC-9246, at that time a lorry bearing Regn.No.TN-33-A-5699 driven by the first respondent came in a rash and negligent manner and dashed the vehicle in which the appellant was riding, due to which, the appellant / claimant sustained grievous injuries all over his body. Therefore, the appellant had filed a claim petition claiming a sum of Rs.20,00,000/- for the injuries sustained by him in the said accident.

3. Before the Tribunal, both the appellant and the respondents have neither examined any witnesses nor marked any documents. After adjudication, the Tribunal had dismissed the said claim petition, on the ground that no evidence have been adduced by the appellant and the respondents. Assailing the same, the present appeal is filed by the appellant.



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4. The learned counsel appearing for the appellant / claimant submitted that, due to the rash and negligent driving of the first respondent, the appellant sustained grievous injuries all over the body and the second respondent being the insurer of the first respondent vehicle is liable to indemnify the claimant for the injuries sustained by him. However, on the sole ground that the appellant and the respondents have not adduced any documents or examined any witnesses before the Tribunal, the claim petition filed by the appellant was dismissed. He further submits that the failure to prosecute the case was neither wilful nor wanton and the appellant will be put to irreparable loss, if he is not given one more opportunity to prove his case. Hence, he prayed to set aside the order dated 02.01.2020 passed by the Tribunal in M.C.O.P.No.1297 of 2016 and remand the same for fresh adjudication.

5. Heard the learned counsel appearing for the appellant and the learned counsel for the second respondent and perused the materials available on record.



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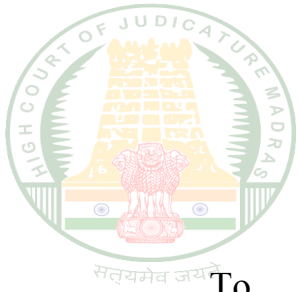
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6. In view of the limited request sought for by the learned counsel for the appellant, the award dated 02.01.2020 passed by the Tribunal in M.C.O.P.No.1297 of 2016 is set aside and the matter is remanded to the Tribunal for fresh adjudication. Further, this court directs the appellant and the respondents to let in evidences before the Tribunal. After production and examination of the witnesses, the Tribunal after affording an opportunity of hearing to the parties is directed to dispose of the M.C.O.P.No.1297 of 2016 upon the materials placed before it within a period of three months from the date of receipt of a copy of this judgment. It is underscored that in the eventuality of the appellant succeeding in the case to be taken on record, he would not be entitled to any interest from the date of dismissal of the claim petition (i.e., 02.01.2020) till the restoration of M.C.O.P.No.1297 of 2016.

7. With the above directions and observation, this appeal is allowed. No costs.

09.01.2025

Index : Yes / No
Speaking order / Non-speaking order
Netrual Citation Case : Yes / No
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To

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1. The Motor Accident Claims, (Special Subordinate Judge) Coimbatore
2. The Section Officer, V.R.Section, High Court, Madras.



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M.DHANDAPANI, J.

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