



CMA.No.548 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :25.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.548 of 2025

R.Mamatha

... Appellant

Vs.

1.Ravi

2.The Manager

ICICI Lombard General Insurance Company Limited

Having office at No.414,

Veer Savukar Marg, Near Siddi Vinayak Temple

Prabhadevi

Mumbai-400 025

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to allow the above Civil Miscellaneous Appeal and to set aside the judgment and decree dated 29.03.2023 made in MCOP.No.501 of 2018 on the file of Motor Accident Claims Tribunal, Additional District Judge, Hosur, Krishnagiri District.

For Appellants : Mr.M.Sivakumar



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JUDGMENT

Aggrieved by the dismissal of the claim petition, the claimant has come before this court by way of this appeal.

2. According to the claimant, she was traveling in a two-wheeler belonged to her husband/ first respondent bearing registration number TN70R8868 as a pillion rider. The vehicle is insured with the second respondent. It was stated by the claimant that the first respondent had driven the vehicle in a rash and negligent manner. It was also stated that an unknown car which came in the opposite direction in a rash and negligent manner and hit against the motorcycle driven by the husband of the claimant. Due to the said impact, the claimant fell down on the road and sustained grievous injuries including the fracture in right femur. Therefore, the claim petition was filed seeking compensation of Rs.10,00,000/-.



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3. The claim was resisted by the 2nd respondent/ Insurance Company on the ground that the accident had occurred only due to the rash and negligent driving of the unknown car and the 1st respondent was not at all responsible for the alleged accident.

4. In order to prove the negligence aspect, the injured claimant was examined as PW1. Though during her chief examination, she referred about rash and negligent driving of the first respondent, during cross-examination, she clearly admitted that her husband/ first respondent had driven the vehicle in a cautious manner and the unknown car came in the opposite direction in a rash and negligent manner and dashed against the two-wheeler.

5. The Tribunal, relying on the admission of PW1 in cross-examination, came to the conclusion that the accident had occurred only due to the rash and negligent driving of the unknown vehicle and there was no negligence on the part of the first respondent and hence, dismissed the application filed under Section 166 of Motor Vehicles Act as the claimant failed to prove rash and negligent driving of the



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6. The learned counsel for the appellant vehemently contended that there was a plea in the claim petition regarding rash and negligent driving of the first respondent. It is settled law that plea shall be supported by the evidence. In the case on hand, the claimant herself clearly admitted during her cross-examination that the two-wheeler was driven by the first respondent in a cautious manner and the accident had occurred only due to the rash and negligent driving of the unknown vehicle. In these circumstances, I do not find anything to interfere with the findings of the Tribunal. Accordingly, the civil miscellaneous petition stands dismissed. However, it is open to the claimant to approach the competent authority to claim compensation amount under the scheme administered for hit and run cases. No costs.

25.02.2025

Index:Yes/No
Internet:Yes/No
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To

1. Motor Accident Claims Tribunal,
Additional District Judge, Hosur, Krishnagiri District.

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



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S.SOUNTHAR, J.

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