



C.M.A.No.398 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 14.02.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.398 of 2025

and

C.M.P.No.2995 of 2025

Branch Manager
United India Insurance Company Ltd,
No.22, P.R.Sundaram Ayyar Street,
Dharmapuri Town, Taluk & District.

... Appellant

VS.

1.Thirupathi

2.K.Dhanasekaran

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 06.10.2023 made in M.C.O.P.No.327 of 2021 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Dharmapuri.

For Appellant : Mr.D.Bhaskaran



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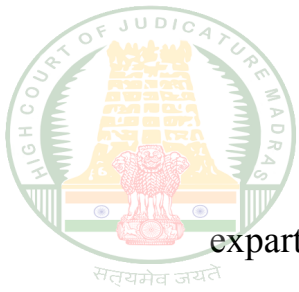
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J U D G M E N T

This Civil Miscellaneous Appeal is filed by the Insurance Company aggrieved by the award passed by the Motor Accident Claims Tribunal.

2. The 1st respondent/injured claimant filed a claim petition seeking compensation for injuries suffered by him in a road accident that had taken place on 26.11.2020. According to the claimant, on 26.11.2020, he was proceeding on the left hand side of the road in his two wheeler/Splendor Plus bearing Registration No.TN 29 BE 5589 by following the traffic rules. The Innova Car owned by the 2nd respondent herein insured with the appellant bearing Registration No.TN 29 AE 0999 came in the opposite direction in a rash and negligent manner and dashed against the two wheeler of the victim. As a result of the said road accident, the victim suffered fracture in his right leg, fracture in his right tibia, spinal cord and right fibula. It was also claimed that injured got head injury. Therefore, a claim petition was filed by the 1st respondent/claimant seeking a sum of Rs.10,00,000/- towards compensation.

3. The 2nd respondent/owner of the offending vehicle remained



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exparte before the Tribunal.

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4. The appellant/insurer of the offending vehicle filed counter affidavit and resisted the claim petition by denying the manner of accident as described in the claim petition. It was the case of the appellant before the Tribunal that the driver of the Innova Car insured with the appellant had driven the vehicle carefully by following traffic rules and the accident had occurred only due to the rash and negligent driving of the victim.

5. Before the Tribunal, the injured/claimant was examined as PW.1. On behalf of the injured/claimant 17 documents were marked as Exs.P1 to P17. On behalf of the appellant/insurer, an employee of the Government Hospital, Dharmapuri was examined as RW.1 and the Investigation Officer was examined as RW.2. On behalf of the appellant/insurance company, 4 documents were marked as Exs.R1 to R4. The Disability Certificate issued by the Medical Board was marked as Ex.C1.

6. The Tribunal on appreciation of evidence available on record, came



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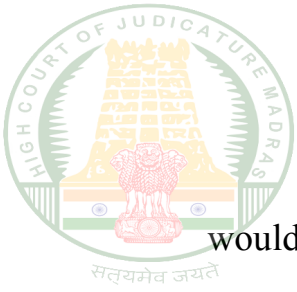
to the conclusion that the accident had occurred due to the negligence of the driver of the vehicle insured with the Appellant/Insurance Company and the Tribunal quantified the compensation at Rs.1,47,003/-.

7. Aggrieved by the award passed by the Tribunal mainly on the question of negligence, the Insurance Company has filed this appeal.

8. The learned counsel appearing for the appellant/Insurance Company has not advanced any arguments on the question of quantum.

9. The learned counsel appearing for the appellant submits that as per the FIR marked as Ex.R3 and the final report marked as Ex.R4, the accident had occurred only due to the negligence of the victim and hence, the Tribunal committed a serious error in fixing the negligence solely on the part of the driver of the Innova Car insured with the appellant.

10. Though in FIR and final report laid by the Police, it was mentioned that the accident had occurred due to the negligence of the victim, a perusal of Ex.P16, the judgment passed by the Criminal Court



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would establish that the victim was acquitted from all charges. In order to prove the negligence, the injured/claimant appeared before the Tribunal and made a statement on oath. However, no contra evidence was let in by the appellant/Insurance Company by examining the driver of the Innova Vehicle.

11. Further, Ex.P9-Motor Vehicle Inspection Report referred about the bursting of the tyre of the Innova Car. Therefore, based on the Ex.P9 and the evidence of PW.1, the Tribunal came to the conclusion that the accident had occurred due to the negligence of the driver of the Innova Car insured with the appellant-insurance company. The Tribunal also referred about the non-examination of the driver of the Innova Car, who is a material witness in this case.

12. Though argument was advanced on behalf of the appellant that the victim was under the influence of alcohol at the time of accident, the Investigation Officer, who was examined as RW.2 clearly admitted in the final report filed by him that there was no mentioning about intoxication of the victim. No material had been placed before the Tribunal that at the time



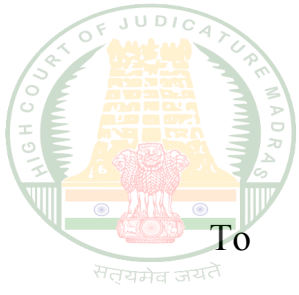
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of accident, the alcohol level in the blood sample of the victim exceeded the permissible limits. In such circumstances, the finding rendered by the Tribunal that accident had occurred due to the rash and negligent driving of the driver of the Innova Car insured with the appellant-insurance company is based on proper appreciation of the evidence available on record and the same is not vitiated by any perversity. Accordingly, I do not find anything to interfere with the finding rendered by the Tribunal.

13. Hence, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

14.02.2025

Index :Yes/No
Speaking order :Yes/No
Neutral Citation :Yes/No
dm



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To

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1.The Motor Accidents Claims Tribunal
(Chief Judicial Magistrate), Dharmapuri.

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



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S.SOUNTHAR, J.

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