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C.M.A.No.3710 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3710 of 2019

And

C.M.P.No.21260 of 2019

The Divisional Manager,
M/s.United India Insurance Co. Ltd.,
P.B.No.28, 12003-A,
Old Bangalore Road,
Hosur.

... Appellant

Vs.

1.T.R.Balaji
2.P.Mohan
3.M/s.Bajaj Allianz General Insurance Co. Ltd.,
No.11, Peoples Park,
3rd Floor, Govt. Arts College Road,
Coimbatore.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 31.01.2011 made in M.C.O.P.No.1152 of 2007, on the file of the MACT (FTC-IV) Coimbatore at Tirupur.

For Appellant : M/s.I.Malar

For Respondents : R1 – No Appearance

R2 – NDW

vide endorsement made in grounds
Mr.J.Michael Visuvasam for R3



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J U D G M E N T

The second respondent before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has been filed against the judgment and decree dated 31.01.2011 made in M.C.O.P.No.1152 of 2007, on the file of the MACT (FTC-IV) Coimbatore at Tirupur.

2.The learned counsel appearing for the appellant submitted that the first respondent filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.3 Lakhs for the damages caused to his car, alleging that on 28.06.2007 at about 04.30 p.m., the first respondent was travelling in his car bearing Registration No.TN 48 E 5333 from Chennai to Tirupur near Kaligoundenpalayam Pirivu Road. At that time, an Eicher van bearing Registration No.TN 29 AZ 0894 belonging to the second respondent came in a rash and negligent manner and dashed at the rear side of the car from behind.

3.The learned counsel appearing for the appellant further submitted that after adjudication, the Tribunal awarded a sum of Rs.1,09,650/- as compensation for damage caused to the first respondent's vehicle along with interest at 7.5% p.a. from the date of

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the petition i.e., 26.10.2007 till the date of payment and proportionate costs and directed the appellant to deposit the amount and dismissed the claim petition as against the third respondent.

4.The learned counsel appearing for the appellant further submitted that as per the policy, for property damage the third party claim is maximum Rs.6,000/-, whereas, the Tribunal awarded a sum of Rs.1,09,650/- as compensation for damage caused to the first respondent's vehicle, which is not sustainable one.

5.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the third respondent. Though the name of the first respondent has been printed in the cause list, there is no representation for the first respondent. Considering the pendency of the civil miscellaneous appeal, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

6.The accident and the manner in which the accident happened are not disputed. Admittedly, the vehicle insured with the appellant dashed against the vehicle belonging to the first respondent, thereby,



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the vehicle belonging to the first respondent got damaged. For property damage, the third party claim is maximum Rs.6,000/-. Hence, the first respondent is entitled to a sum of only Rs.6,000/-, however, contrary to the maximum limit, the Tribunal has awarded a sum of Rs.1,09,650/- as compensation for damage caused to the first respondent's vehicle, which is not sustainable one.

7.The appellant Insurance Company is directed to deposit a sum of Rs.6,000/- along with interest at 7.5% p.a. from the date of the petition i.e., 26.10.2007 till the date of payment, before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. The appellant Insurance Company is permitted to withdraw the excess amount already deposited by them, if any.

8.On such deposit being made, the first respondent/ claimant is permitted to withdraw the award amount, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.



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9.The civil miscellaneous appeal is partly allowed. The judgment and decree dated 31.01.2011 made in M.C.O.P.No.1152 of 2007, on the file of the MACT (FTC-IV) Coimbatore at Tirupur, is modified to the above extent. No costs. Consequently, the connected miscellaneous petition is closed.

27.01.2025

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The MACT (FTC-IV) Coimbatore at Tirupur.



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M.DHANDAPANI,J.
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