



C.M.A(MD)No.1622 of 2008

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 11.11.2025

CORAM:

THE HONOURABLE MS.JUSTICE R.POORNIMA

C.M.A.(MD)No.1622 of 2008

K.V. Sudarsan

... Appellant / petitioner

Vs.

1.R. Ariyanachy

2. National Insurance Co. Ltd.,

represented by its Branch Manager

No.2A, Thirumangalam North Street,

Tallakulam,

Madurai – 625 002.

... Respondents 1 & 2 / Respondents

3. The Managing Director / Joint Registrar

Madurai District Pandian Consumer Cooperative,

Wholesale Stores,

Madurai East Veli Street,

Madurai - 1.

... 3rd Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decretal order dated



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27.06.2007 made in M.A.C.O.P.No. 898 of 2000 on the file of the Motor Accident Claims Tribunal (Additional District Court cum Fast Track No.1), Madurai and allow this Civil Miscellaneous Appeal.

For Appellants : Mr.S.Rajasekar

For Respondents : Mr.T. Lenin Kumar – for R1

Mrs.P.Malini – for R2

Mr.D.Shanmugaraja Sethupathi for R3

JUDGMENT

This Civil Miscellaneous Appeal has been preferred against the fair order and decretal order, dated 27.06.2007 passed in M.A.C.O.P. No.898 of 2000 by the Motor Accident Claims Tribunal (Additional District Court cum Fast Track No.1), Madurai.

2. Brief facts of the petition filed by the petitioner before the Tribunal are as follows:-

On 06.08.1998 at about 9.45 p.m., a kerosene barrels loaded lorry bearing registration No. TN 59 C 0736, belonged to the 1st respondent, which is coming to unload the kerosene barrels to a ration shop at 1st street, Krishnapuram, fire broke out from the vehicle and



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kerosene barrels blasted, fire quickly spread the area. The neighbours of the ration shop are alarmed the fire sparkle in the battery, the driver tried to stop, but the lorry was bursted by the leakage of the fire sparkles from the battery. Due to the fire bursting, the petitioner's K.A.M distribution drugs and pharmaceuticals shop was entirely fired and the medicines were certified as not fit for human use. The medicines in pharmaceuticals value about Rs.4,00,000/-. The accident was occurred by the 1st respondent's vehicle which was insured with the 2nd respondent. The petitioner claimed a sum of Rs.4,00,000/- as compensation.

3. Before the Tribunal, the first respondent, who is the owner of the offending vehicle remained ex-parte. The Insurance Company second respondent filed a counter statement denying the manner of the fire accident as alleged in the claim petition and disputing their liability to pay compensation. Further stated that the proper party against whom the claim could be maintained is the Madurai District Pandian Consumers Co-operative Wholesale Stores Ltd. The petition is bad for non-joinder of necessary parties.

4. Before the Tribunal, on the side of the claimant, 3



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witnesses were examined as PW1 and PW3 and 27 documents were marked as Exs.P1 to P27. Neither oral nor documentary evidence was adduced by the respondents.

4.After considering the material evidence and records, the Tribunal dismissed the claim petition on the ground that the petitioner has not impleaded the necessary party.

5.Aggrieved over the order of the Tribunal, this Civil Miscellaneous Appeal has been preferred by the Appellant/claimant, on the following grounds :

(a) That the Tribunal erred in holding that the appellant ought to have been impleaded Pandiayan Co-operative Store as a necessary party.

(b) That the Tribunal accepted that the appellant was having Pharmaceuticals and Surgical items shop and he is sole proprietor of K.A.M. Distributors erred in granting only a sum of Rs.2,00,000/- as compensation towards pain and suffering and no amount towards loss of articles and materials.

6. Now, this Court has to decide the following point for



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consideration:-

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(1) whether the order passed by the Tribunal is proper or liable to be set aside ?

7. This court considered the rival submission of the learned counsel appearing on either side and perused the materials available on record.

8.Point :

The learned counsel for the appellant during the course of argument stated that the claim petition was dismissed only on the ground that the appellant has not impleaded the original owner as a necessary party. Now he has added the Pandiyan Co-operative Store as a party/3rd respondent in this Civil Miscellaneous Appeal.

9. The learned counsel for the 1st respondent owner of the vehicle stated that he has not filed the Motor Vehicle Inspector report to show that the accident had happened due to mechanical defect.

10. The learned counsel appearing for the 2nd respondent



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stated that the insurance policy was not marked before the trial Court by showing that the policy includes the property damage and no premium was paid for 3rd party damage coverage.

11. The learned counsel appearing for the third respondent stated that as far as the newly impleaded third respondent is concerned, he is not the owner of the kerosene but he is only a wholesale distributor and number of retailer used to come and take kerosene and therefore, the appellate Court cannot decide the liability and prays to remit back the matter for fresh consideration and disposal.

12. Considering the facts and circumstances of the case and also for the purpose of securing proper evidence and also in the interest of Justice, this Court feels that the award in question is liable to be set aside and the matter is required to be remitted for fresh trial to the file of the Motor Accidents Claims Tribunal. The third respondent Pandiyan Co-operative Stores is also also permitted to implead him before the Tribunal and also to adduce evidence before the Tribunal. The Point is answered accordingly.



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13. In fine, this Civil Miscellaneous Appeal is allowed and the award dated 27.06.2007 passed in M.A.C.O.P.No.898 of 2000 on the file of the Motor Accident Claims Tribunal (Additional District Court cum Fast Track No.1), Madurai is set aside and M.A.C.O.P.No.898 of 2000 is remitted to the file of the Motor Accident Claims Tribunal (Additional District Court cum Fast Track No.1), Madurai for fresh disposal. The trial Court is hereby directed to fix the date for hearing of the parties and to adduce additional evidence and after hearing all the parties, the Tribunal is directed to dispose the same within a period of three months from the date of receipt of a copy of this order and report the same to the Registry without fail. No costs.

11.11.2025

Index : Yes / No

NCC : Yes / No

RM

To

1.The Additional District Court cum Fast Track No.1,
Motor Accident Claims Tribunal,
Madurai.



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Copy to

1. The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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R.POORNIMA, J.

RM

Judgment in
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