



CMA.(MD)No.631 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

|                    |            |
|--------------------|------------|
| Date of Reserved   | 09.10.2025 |
| Date of Pronounced | 17.11.2025 |

**CORAM**

The Hon'ble Ms.Justice **R.POORNIMA**

**CMA(MD)No.631 of 2014**

**and**

**M.P.(MD)No.3 of 2014**

The Branch Manager,

The National Insurance Company Limited,

Pudukkottai.

: Appellant/2<sup>nd</sup> Respondent

Vs.

1.K.Mohammed Ibrahimsa

: 1<sup>st</sup> Respondent/Petitioner

2.A Majitha Begum

: 2<sup>nd</sup> Respondent/1<sup>st</sup> Respondent

**PRAYER:-**Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and award made I MCOP No.103 of 2004, dated 12.07.2011 on the file of the Motor Accidents Claim Tribunal, Chief Judicial Magistrate, Pudukkottai.



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For Appellant : Mr.D.Sivaraman

For Respondent : Mr.K.Maniyarasu (No appearance)

### **J U D G M E N T**

This Civil Miscellaneous Appeal is preferred against the award passed in MCOP No.103 of 2004, dated 12.07.2011 by the Motor Accidents Claim Tribunal/Chief Judicial Magistrate, Pudukkottai.

#### **2.The brief case of the claimant are as follows:-**

(a) On 19.10.1999 at about 07.30 pm, when the petitioner riding his TVS-50 moped on the Mela Ratha Veedhi, a Fiat Car No.TAA-8259 came behind him and dashed it. In that process, the petitioner had sustained several multiple injuries and bone fracture. Immediately, he was taken to a nearby private hospital and took treatment between 19.10.1999 to 02.11.1999.

(b) At the time of accident, the petitioner was aged about 42 years. He was doing business and earning Rs.3,000/- per month. Claiming compensation of Rs.5,00,000/- for the injuries sustained in the



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accident, he filed a claim petition before the Tribunal.

3. The 2<sup>nd</sup> respondent, National Insurance Company filed a counter denying the entire allegation contained in the claim petitions; According to the information gathered by the Insurance Company, there was no accident occurred as alleged in the claim petition; The police have not registered any case, though the police station is located very near from the place of occurrence; both the vehicles involved in the accident were not inspected by the Motor Vehicles Inspector to substantiate the alleged accident; the date of the alleged accident is on 19.10.1999, but a complaint was made by the petitioner to the police through his Advocate after a lapse of one year i.e., on 08.09.2020 requesting to take action against the driver and owner of the offending vehicle and further the claim petition has been filed after a lapse of four years from the date of the accident. So, it is a case of false claim and the Insurance Company is not liable to pay any compensation and prayed for dismissal of the claim petition.

4. Before the Tribunal, on the side of the claimant, 3 witnesses were examined as P.W.1 to P.W.3 and 12 documents were



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marked as Exs.P1 to P12. On the side of the respondents, one witness was examined as RW1 and 2 documents were marked as Exs.R1 and R2.

5. After considering the material evidence and records, the Tribunal has awarded compensation of Rs.2,35,840/- together with interest at the rate of 7.5% per annum and directed the respondents 1 and 2 to pay the said award amount jointly and severally together with interest at 7.5% per annum.

6. Aggrieved over the order of the Tribunal, this Civil Miscellaneous Appeal has been preferred by the Appellant Insurance Company, disputing the manner of accident and their liability to pay the compensation.

7. This Court considered the rival submission of the learned counsel appearing for the appellant and perused the materials available on record.

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



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consideration:-

*(1) Whether the Fiat Car bearing Registration No.TAA 8289 insured with the appellant was not involved in the accident ?*

*(2) whether the order passed by the Tribunal is sustainable or liable to be set aside ?*

9. Point Nos.1 and 2 :

According to the claimant the accident took place on 19.10.1999. On the same day, he lodged a complaint before the Pudukottai Town Police Station. Owing to severe pain and injuries sustained by him, he was admitted in the Bopanna Clinic, and therefore he was unable to pursue or follow up the case immediately to ascertain whether any First Information Report was registered by the police against the driver of the offending vehicle. However, the claimant has neither produced a copy of the complaint said to have been lodged before the police nor furnished any medical records relating to the initial treatment allegedly taken at Bopanna Hospital. The claimant further, stated that in



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Madurai Senthil Nursing Home where he had subsequently taken treatment had sent the accident intimation report to the police on 12.11.1999, which was produced as Ex.P5.

10. However according to the appellant, the document Ex.P5 is a fabricated one created by the claimant and was not issued or sent by the Hospital authorities as alleged. Upon Verification, this Court found the said document appears to be original accident report, purportedly issued by Senthil Nursing Home. On perusal of the document, this Court observed that certain alterations in the column describing the nature of accident. Originally it was recorded “fall from his two wheeler” but it stated that some additional words have later been inserted in a different handwriting, indicating possible fabrication.

11. Normally when intimation regarding an accident is forwarded to the police, the hospital authorities retain the carbon copy of such intimation in their record, which would also be the acknowledgment of receipt by the concerned police station. The production of the original accident register itself creates a doubt regarding its genuineness. The



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claimant failed to examine the Doctor who had issued the accident register, however, the claimant examined P.W.2, who are said to have given him treatment. He admitted during his deposition that he had examined the claimant nearly 12 years after the occurrence of the accident. Further Ex.P12 is the patient record issued by the Senthil Nursing Home, which reveals that the claimant was admitted on 03.11.1999 and discharged on 18.11.1999. A perusal of case sheet in page No.3 shows that the claimant had earlier undergone native treatment prior to his admission in the said hospital. The above record is contrary to the contention of the claimant that he was admitted to Bopanna Hospital immediately after the accident and discharged from the hospital and joined in Senthil Nursing Home.

12. Further the claimant had issued notices Ex.P1 and Ex.P2 to the Sub Inspector of Police, Pudukottai on 18.9.2000 requesting action against the offending vehicle. However, he neither produced any reply from the police nor initiated any private complaint before the Judicial Magistrate, by stating that the police failed to register a case and no explanation has been furnished for such inaction.



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13. The claimant has not examined the concerned police to substantiate his contention that a police complaint had already been launched, and the accident was intimated by the hospital authority through the accident intimation. Furthermore, the claim petition itself was filed after lapse of four years from the date of the alleged accident. The claimant sought to explain this delay by stating that he had been suffering from heart ailment, no medical records or documents were produced to substantiate the said claim.

14. There is no dispute that the claimant sustained injuries, however he failed to establish that such injuries were sustained in a motor vehicle accident as alleged by him. Further, neither the offending vehicle owner nor its driver appeared and defend the claim, however their absence cannot be a ground to allow the claim when the claimant has failed to establish the manner of accident through proper evidence. Without considering any of the above facts, the Tribunal erroneously allowed the claim petition and awarded compensation, which is liable to be set aside.



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15. If such petitions are allowed, the claimant alone stands to benefit under the legislative scheme while the insurance company would suffer substantial loss. Before entertaining any claim petition, the Tribunal must first ensure that the claim petition is genuine, maintainable, and supported by valid evidence.

16. In view of the forgoing discussion, this Court is of the opinion that the award passed by the Tribunal is not proper and warrants interference and the order passed by the Tribunal is liable to be set aside as the claimant has failed to produce proper evidence to prove that the injury sustained by him occurred in the alleged the motor vehicle accident at the said place and date. Point Nos.1 and 2 are answered accordingly.

17. In the result, the Civil Miscellaneous Appeal is allowed and the impugned award dated 12.07.2011 passed in M.C.O.P.No.103 of 2004 by the Chief Judicial Magistrate, Motor Accident Claims Tribunal, Pudukkottai, is hereby by set aside. No costs. Consequently, connected miscellaneous petition is closed.



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**17.11.2025**

Index: Yes/No  
Internet: Yes/No  
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To

1. The Motor Accident Claims Tribunal/  
Chief Judicial Magistrate,  
Pudukkottai.
2. The Section Officer,  
ER/VR Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**R.POORNIMA, J**

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