

C.M.A.(MD)No.1227 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
WEB COPY

Reserved on : 25.06.2025

Pronounced on : 29.08.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.A.(MD)No.1227 of 2023

and

C.M.P.(MD)No.16185 of 2023

The Divisional Manager,
M/s.Oriental Insurance Co. Ltd.,
Branch Office, No.16, North Veli Street,
Madurai-625001.

... Appellant/
4th Respondent

Vs.

1.Suresh

... 1st Respondent/
Petitioner

2.The Director,
M/s.Raymix Concrete Private Ltd.,
No.49, Sakthi Garden,
Chenneerkuppam, Poonamallee,
Chennai-600056.

... 2nd Respondent/
1st Respondent

3.The Branch Manager,
M/s.United India Insurance Company Ltd.,
West Veli Street,
Madurai-625001.

... 3rd Respondent/
2nd Respondent



4.Rekha
WEB COPY



C.M.A. (MD) No. 1227 of 2023

... 4th Respondent/
3rd Respondent

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the order of the Tribunal of MACT cum Special Sub Court, Madurai made in M.C.O.P.No.1157 of 2018 dated 06.06.2023 and allow the appeal with costs.

For Appellant : Mr.C.Jawahar Ravindran

For Respondents : Mr.K.C.Ramalingam for R1

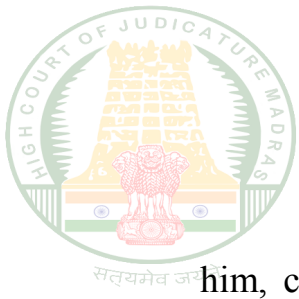
No appearance for R2 & R4

Mr.C.Karthik for R3

JUDGMENT

The Civil Miscellaneous Appeal is directed against the award passed in M.C.O.P.No.1157 of 2018 dated 06.06.2023 on the file of the Motor Accident Claims Tribunal / Special Subordinate Court for MCOP cases, Madurai.

2. The appellant / Insurance Company, who was mulcted with liability of 50% and to pay compensation of Rs.2,68,900/- (Rupees Two Lakhs Sixty Eight Thousand and Nine Hundred only) with interest at 7.5% per annum to the first respondent / claimant, for the disability sustained by



C.M.A. (MD) No. 1227 of 2023

WEB COPY

him, consequent to an accident occurred on 25.02.2016, challenged the liability fastened on it.

3. The case of the first respondent / claimant is that on 25.02.2016 at about 05.00 p.m., when the first respondent / claimant was riding a two wheeler Splendor bearing Registration No.TN-58-BK-6889 in Thirumangalam to Samayanallur Fourway road, at the place near Srinivasa Colony-Amman Transport, a van bearing Registration No.TN-10-Q-8454, which came from North to South in a rash and negligent manner, suddenly took U-turn in the same road and dashed against the first respondent / claimant's two wheeler and as a result of which, the first respondent / claimant sustained injuries all over his body.

4. On the basis of the complaint lodged, FIR came to be registered in Crime No.116 of 2016 on the file of Nagamalai Pudukottai Police Station under Sections 279 and 337 IPC against the first respondent / claimant.

5. It is the further case of the first respondent / claimant that after



C.M.A.(MD)No.1227 of 2023

WEB COPY

taking treatment, he lodged a complaint and since the same was not considered, he was constrained to lodge a complaint before the Superintendent of Police, Madurai, who in turn, directed the jurisdictional police to investigate the case but Nagamalai Pudukottai Police failed to investigate the case properly.

6. The first respondent / claimant, by alleging that he sustained disability due to the accident, filed a claim petition not only against the owner and insurer of the van and also against the owner and insurer of the two wheeler, which was ridden by the first respondent / claimant himself. The insurer of both the vehicles have filed counter statement raising objections.

7. During enquiry, the first respondent / claimant examined himself as P.W.1 and one Gokul as P.W.2 and exhibited 12 documents as Ex.P.1 to Ex.P.12. The third respondent / insurer of the van summoned and examined Sub Inspector of Police attached to Nagamalai Pudukottai Police Station as R.W.1 and driver of the van as R.W.2 and exhibited 2 documents as Ex.R.1 and Ex.R.2. The disability certificate issued to the



C.M.A. (MD) No. 1227 of 2023

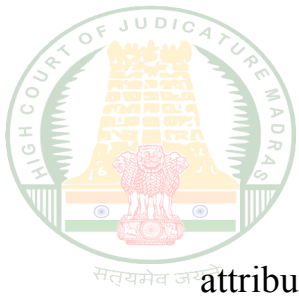
first respondent / claimant by the Medical Board came to be exhibited as

WEB COPY

Ex.C.1.

8. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, passed the impugned award dated 06.06.2023 by holding that the negligence of both the first respondent / claimant as well as the driver of the van was responsible for the accident, fixed the contributory negligence at 50% each and directed the appellant and the third respondent, insurer of both the vehicles to pay compensation of Rs.2,68,900/- each with interest and costs. Aggrieved by the impugned award mulcting liability, the insurer of the two wheeler has preferred the present appeal.

9. The learned counsel appearing for the appellant would submit that the Tribunal, having attributed 50% contributory negligence to the first respondent / claimant for riding the two-wheeler improperly, erred in mulcting liability on the appellant / insurer to pay the compensation. It is contended that the Tribunal should have deducted 50% of the award amount from the total compensation, given the contributory negligence



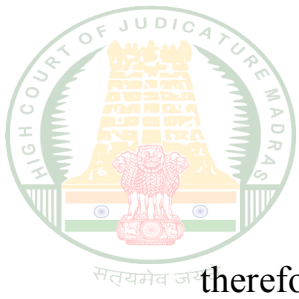
C.M.A. (MD) No. 1227 of 2023

WEB COPY

attributed to the first respondent / claimant and therefore, the impugned award against the appellant / insurer of the two-wheeler is liable to be set aside.

10. The learned counsel appearing for the first respondent would submit that the finding of the Tribunal that the first respondent / claimant was also at fault is not correct and the evidence available on record would only reveal that the van driver alone was responsible for the accident and as such, the Tribunal ought to have mulcted the entire liability on the third respondent / insurer of the van. But admittedly, the first respondent / claimant has not filed any appeal nor filed any cross objection challenging the finding of the Tribunal that the first respondent / claimant's negligence was also responsible for the accident and the consequent fixing of contributory negligence at 50% as against the first respondent / claimant. Moreover, the third respondent / insurer of the van has also not filed any appeal challenging the decision of the Tribunal.

11. The learned counsel appearing for the third respondent would submit that they have already paid their 50% of the award amount and that



C.M.A. (MD) No. 1227 of 2023

WEB COPY

therefore they can only be taken as a formal party in the present appeal.

12. Considering the above, the finding of the Tribunal that the driver of the van was also responsible for the accident and fixing of contributory negligence at 50% upon him and the consequent direction to the third respondent / insurer of the van to pay 50% of the compensation amount to the first respondent / claimant has attained finality. As already pointed out, the third respondent / insurer of the van has already paid the compensation to the first respondent / claimant.

13. It is pertinent to note that the Tribunal has specifically given a finding that the first respondent / claimant's negligence was also responsible for the accident and consequently fixed the contributory negligence at 50% as against the first respondent / claimant. If that be so, this Court is at loss to understand as to how the Tribunal directed the appellant / insurer of the two wheeler owned by the fourth respondent, which came to be ridden by the first respondent / claimant at the time of accident to pay 50% of the compensation to the first respondent / claimant. Since the first respondent / claimant himself was negligent, the question of



C.M.A. (MD) No. 1227 of 2023

WEB COPY

granting of compensation by the appellant / insurer of the two wheeler does not arise at all. As rightly contended by the learned counsel appearing for the appellant, the Tribunal should have deducted 50% of the amount from the total compensation awarded to the first respondent / claimant.

14. Considering the above, the impugned award directing the appellant / insurer of the two wheeler to pay 50% of the compensation to the first respondent / claimant is legally unsustainable and the same is liable to be set aside. Considering the other facts and circumstances of the case, this Court further decides that the parties are to be directed to bear their own costs.

15. In the result, this Civil Miscellaneous Appeal is allowed. If the appellant has already deposited the amount, they are permitted to withdraw it. The parties are directed to bear their own costs. Consequently, the connected Miscellaneous Petition is closed.

29.08.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
csm



C.M.A. (MD) No. 1227 of 2023

WEB COPY

To:

1. The Special Subordinate Judge,
Motor Accident Claims Tribunal,
Madurai.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD)No.1227 of 2023

K.MURALI SHANKAR,J.

csn

Pre-Delivery Judgment made in
C.M.A.(MD)No.1227 of 2023
and
C.M.P.(MD)No.16185 of 2023

Dated : 29.08.2025