BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 12.02.2026

Pronounced on : 23.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.A.(MD)No.536 of 2020
and
C.M.P(MD)No.5595 of 2020

The Divisional Manager,
National Insurance Company Limited,
Divisional Office, Door No.37 C,
S.N.High Road, Tirunelveli Junction,
Tirunelveli District. ... Appellant/Respondent

Vs.

Sakthivel,
S/o.Shunmuga Sundaram,
D.No.5, Police Quarters,
S.N.High Road, Tirunelveli Junction,
Tirunelveli District. ...Respondent/Petitioner

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree made in M.C.O.P.No.455 of 2013 dated 19.10.2019 on the file of Motor Accident Claims Tribunal/Special Sub Court, Tirunelveli and allow this appeal.

For Appellant : Mr.N.S.Ramakrishna Dass
For Respondent : Mr.J.Ashok

JUDGMENT

This Civil Miscellaneous Appeal is preferred against the Award, dated 19.10.2019 passed in M.C.O.P.No.455 of 2013 by the Motor Accident Claims Tribunal/Special Sub Court, Tirunelveli.

2.The respondent in M.C.O.P.No.455 of 2013 is the appellant herein. The petitioner/claimant is the respondent herein.

3.For the sake of convenience, the parties as arrayed in M.C.O.P.No. 455 of 2013 are adopted hereunder.

4.The brief facts of the case:

On 23.02.2012 at about 21.30 hours, the petitioner was riding his motorcycle bearing registration No.TN 69 H 5844 in S.N High Road, Sripuram, Tirunelveli Junction and while he was passing in front of Central Bank from west to east, a dog suddenly crossed, the motorcycle dashed against the dog and the petitioner sustained injuries and a fracture in his right leg. He took treatment at Shree Sudharson Hospital, Tirunelveli. The vehicle was insured with the respondent/Insurance Company and hence, he filed a claim petition seeking compensation of Rs.5,00,000/-.

5.The respondent/Insurance Company strongly objected the claim petition and contended that the petitioner is owner cum rider, who fell down by his own act of dashing against a dog. The insurance policy is for third party risk. The petitioner is not a third party, he himself caused the accident and sustained injuries. When the claim is made by the tort-feaser or any person claiming under the tort-feaser, the question of vicarious liability will not arise. The petitioner is not a third party to his vehicle and the accident was not a result of some actionable negligence of a third party. Even for personal coverage towards death, there is no other benefit to the owner-cum-rider of the vehicle whose negligence led to the accident taken place. Therefore, the petitioner is not entitled to any claim from the respondent insurance company.

6.Before the Tribunal, on the petitioner's side, three witnesses were examined as P.W.1 to P.W.3 and Ex.P.1 to Ex.P.8 were marked. On the respondent's side, R.W.1 was examined and Ex.R.1 was marked.

7.After hearing both sides and after considering the evidences, the Tribunal has passed the impugned order, dated 19.10.2019 and held that in the accident, the petitioner sustained injuries himself and as per personal coverage, awarded compensation, directing the respondent to pay the compensation of Rs.50,000/-.

8.Aggrieved by the said award, the respondent/Insurance Company has preferred this Civil Miscellaneous Appeal.

9.Heard both sides and perused the records in this Civil Miscellaneous Appeal.

10. The learned counsel appearing for the respondent/Insurance Company mainly argued that the accident occurred due to the negligence of the petitioner and FIR was registered against the petitioner himself. The claim petition was filed U/s.166 and 140 of the Motor Vehicles (Amended) Act. The petitioner is a rider cum owner, who fell down and sustained simple injuries. The petitioner, as P.W.1 and the Tribunal clearly stated that as the dog crossed, the petitioner dashed against the dog and fell down. The policy taken by the petitioner is a package policy. Therefore, there is no liability to pay compensation for the injuries, as it only covers death. But the Tribunal has erred in passing an award granting Rs.50,000/-, which is against the law. As per the policy principle, if the petitioner paid Rs.50/-, the above said sum can be awarded only in case of death. The petitioner took treatment for the injuries sustained. There is a delay in lodging the FIR by the petitioner himself. The Hon'ble Supreme Court held in various cases that the owner/insured who is not a third party, is not entitled to claim compensation before the MAC Tribunal under Personal Accident Coverage except for death. The Division Bench of this Court and this Court has adopted the settled principle and dismissed the claim petition. Hence, the impugned award of the Tribunal has to be set aside. In support of his argument, the learned counsel for the respondent/Insurance Company has relied on the following citations:

> **(1) 2020 ACJ 627 - Supreme Court in the case of Ramkhiladi and Anr. /v/ United India Insurance Co. Ltd., and Anr.**
>
> **(2) 2024 (1) TN MAC 758 in the case of National Insurance Company Ltd., /v/ M.Pichandi**
>
> **(3) 2024 (2) TN MAC 305 (DB) in the case of TATA AIG General Insurance Company Ltd., /v/ Shanmugam.**

11. The learned counsel for the petitioner/claimant has submitted that the petitioner sustained a fracture in his right leg and his leg has shortened, so 20% permanent disability was assessed, which is proved through Ex.P.6 - Disability Certificate. The Tribunal has correctly appreciated the oral and documentary evidence and awarded just compensation. Therefore, the Civil Miscellaneous Appeal may be dismissed.

12. On hearing both sides and on perusal of records, it is clear that the Tribunal held that the accident took place due to the act of the petitioner himself, who dashed against a dog. It is clear from the evidence of P.W.1 that in order to claim compensation, an FIR was registered against the petitioner as he paid Rs.50/- towards personal coverage. Therefore, it is the main contest of the insurance company that since the petitioner paid Rs.50/- towards PA cover, the petitioner is entitled to Rs.1,00,000/- only in case of death and he is not entitled to any compensation towards injuries sustained by himself as per the policy condition. The policy condition was marked as Ex.R.1. There is no contrary evidence put forth by the petitioner. As per Section 163A of the Act, compensation can only be awarded in case of death.

13. The respondent/Insurance Company vehemently contended that the petitioner sustained only simple injuries. On perusal of the award, it is clear that the permanent disability of the petitioner is 20%. The petitioner has not established that due to his 20% disability, he is not able to earn and he lost his earning capacity. It is evident that the petitioner is working as a police constable and has permanent income. The petition was filed only under

Sections 166 and 140 of the MV Act. The insurance policy is a package policy and the petitioner sustained injuries due to his own negligence and as per Ex.R.1 – Policy, being a two wheeler policy, whether it is a package or Act policy, there will be no cover for the rider of the two wheeler. A premium of Rs.50/- covers the owner in case of death for Rs.1,00,000/-.

14. The petitioner has also clearly admitted that he paid only Rs.50/- towards Personal Accident Cover. A perusal of citations relied on by the respondent/Insurance Company makes it very clear that the Hon'ble Supreme Court held that a claim for compensation under Personal Accident Coverage for injuries sustained by a person in an accident caused by himself is not maintainable before the Claims Tribunal and it is well open to him to approach the appropriate Forum. The said principle was followed by this Court in various cases. In the above facts and circumstances, the claim petition is not maintainable. Hence, the other aspects, such as age, avocation, etc., need not be discussed. The award passed by the Tribunal is not sustainable. Therefore, the Tribunal has erred in awarding compensation of Rs.50,000/- to the claimant and the same is liable to be set aside.

15. In the result,

(i)The Civil Miscellaneous Appeal is allowed. No costs.

(ii)The award, dated 19.10.2019 passed in M.C.O.P.No.455 of 2013 by the Motor Accident Claims Tribunal/Special Sub Court, Tirunelveli, is set aside. The claim petition in MCOP.No.455 of 2013 on the file of the Motor Accident Claims Tribunal/Special Sub Court, Tirunelveli, is dismissed.

(iii) If any amount deposited by the appellant/Insurance Company in this case, either before the Tribunal or before this Court, the same shall be ordered to be withdrawn by the appellant/Insurance Company on appropriate application.

(iv) Consequently, connected Civil Miscellaneous Petition is closed.

23.03.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

1.The Motor Accident Claims Tribunal/
Special Sub Court,
Tirunelveli.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

P.VADAMALAI, J.

VSD

Pre - Delivery Judgment made in
C.M.A.(MD)No.536 of 2020
and
C.M.P(MD)No.5595 of 2020

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