



C.M.A(MD)No.563 of 2026

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.04.2026

Pronounced on : 24.06.2026

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.563 of 2026

and

C.M.P.(MD)No.5637 of 2026

The Manager,
Cholamandalam MS General Insurance Company Limited,
Madurai Branch,
3 & 4, Dindigul National High Way,
NH 7, Kalavasal, Arasaradi, Madurai. : Appellant

Vs.

1.Murugan
2.Pothiraja : Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award passed in M.C.O.P.No.2217 of 2021, dated 07.12.2024 on the file of the Motor Accident Claims Tribunal cum Special Subordinate Court, Madurai.

For Appellant : Mr.N.Shyllappakalyan,

For Respondents : Mr.V.Sriram, for R1.



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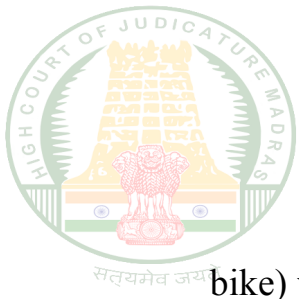
JUDGMENT

The Civil Miscellaneous Appeal is directed against the award made in M.C.O.P.No.2217 of 2021, dated 07.12.2024 on the file of the Motor Accident Claims Tribunal cum Special Subordinate Court, Madurai.

2.The appellant/Insurance Company, who was mulcted with liability to pay 70% of the compensation award, payable to the first respondent/claimant, for the disability sustained by him, consequent to an occurred on 07.09.2021, challenged the contributory negligence mulcted on it and also the quantum of compensation awarded at by the Tribunal.

3. For the sake of convenience and brevity, the parties herein after will be referred as per their status/ranking in the Tribunal.

4. The case of the claimant is that on 07.09.2021 at about 07.30 hours, the petitioner rode his two wheeler Splender plus bearing Reg. No.TN-59-Q 5938, and after filling petrol at K.Puliyangulam petrol bulk, while he was moving, a two wheeler bearing Reg.o.TN-58-AS-4925 (pulsar



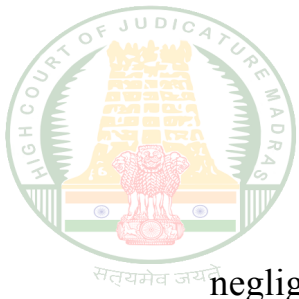
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bike) which came in Madurai to Theni main road from east to west in a rash and negligent manner proceeded on the wrong side of the road and dashed against the Splender plus two wheeler and as a result of which, the claimant fell down and sustained injuries and that the accident was occurred only due to the rash and negligent riding of the pulsar bike rider.

5. The defence of the second respondent/insurer is that the claimant had ridden the motorcycle from the opposite direction, without driving licence and insurance and in a rash and negligent manner and lost control over his vehicle came to the wrong side of the road and dashed against the first respondent's vehicle and caused the accident and that the claimant alone was responsible for the accident and the first respondent's two wheeler rider was not at all fault.

6. The learned counsel for the appellant/insurer would mainly contend that the criminal case came to be registered only against the claimant and after investigation, the jurisdictional police has laid the final report against the claimant; that the insurer has produced ample evidence to show that the claimant alone had ridden the two wheeler in a rash and



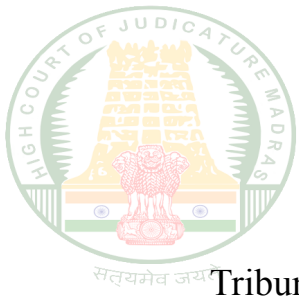
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negligent manner and proceeded towards wrong side of the road and dashed against the first respondent's vehicle and caused the accident and that the Tribunal, without considering the evidence in proper perspective, erroneously mulcted contributory negligence at 70% on the first respondent's rider and only 30% on the claimant and that therefore, the said finding is liable to be interfered with.

7. The learned counsel for the appellant/insurer would further contend that the claimant is the tort-feasor and as such, he cannot claim compensation for an accident caused by his own negligence; that the entire negligence was on the claimant and the claimant failed to prove negligence as contemplated under Section 166 of Motor Vehicles Act and that since the claim petition was not filed under Section 163(A) of Motor Vehicles Act, the present claim petition is liable to be dismissed.

8. The learned counsel for the appellant placed reliance on the decision of Hon'ble Supreme Court in ***Ranjeet and another Vs. Abdul Kayam Neb and another in SLP (C) No.10351 of 2019, dated 25.02.2025,*** contended that since charge sheet has been laid against the claimant, the



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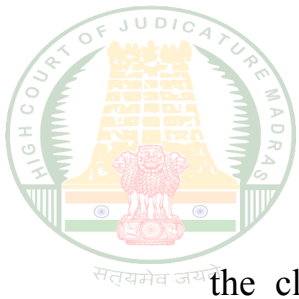
Tribunal ought to have held that the claimant alone was responsible for the accident. The relevant passages are extracted hereunder :

“3. In an accident which took place on 13.06.2006, one ‘Ramkaran’ was alleged to have been hit by the bus leading to his death. An FIR was lodged wherein charge sheet was submitted against the driver of the bus. On the claim being preferred to the Motor Accident Claims Tribunal, since, the eye-witnesses were not produced, the Tribunal refused to grant any compensation. The decision of the Tribunal was upheld by the High Court.

4. It is settled in law that once a charge sheet has been filed and the driver has been held negligent, no further evidence is required to prove that the bus was being negligently driven by the bus driver. Even if the eyewitnesses are not examined, that will not be fatal to prove the death of the deceased due to negligence of the bus driver.

5. In view of the aforesaid facts, we are of the opinion that the Tribunal and the High Court both manifestly erred in law in refusing to grant any compensation to the claimants.

9. It is not in dispute that, in the present case, an FIR in Crime No.334 of 2021 was registered on the file of the Chekkanurani Police Station for the offences punishable under Sections 279 and 337 IPC against



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the claimant. Subsequently, the jurisdictional police filed a final report against the claimant, and the criminal case is now pending in S.T.C. No.313 of 2022 before the jurisdictional Magistrate Court.

10. A careful reading of the above decision would show that the Tribunal and the High Court therein had rejected the claim solely on the ground that the eye-witnesses were not examined. The Hon'ble Supreme Court held that, in the light of the charge sheet laid against the bus driver, non-examination of the eye-witnesses was not fatal to the claim. The said decision cannot be understood to mean that the filing of a charge sheet is conclusive or that the Tribunal is bound to record a finding on negligence solely on that basis.

11. In the case on hand, the claimant, who sustained injuries in the accident, examined himself as P.W.1 and deposed as to the manner in which the accident occurred. According to him, while he was proceeding from the petrol bunk, the first respondent's two-wheeler was ridden in a rash and negligent manner, came to the wrong side of the road and dashed against the claimant's motorcycle, resulting in the accident.



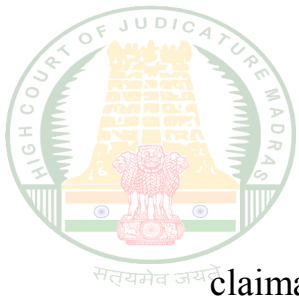
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12. Though P.W.1 was subjected to cross-examination, his evidence regarding the manner of occurrence remained substantially unshaken. Though the insurer specifically pleaded that the claimant alone was responsible for the accident and that the rider of the first respondent's vehicle was not at fault, they neither examined the said rider nor any independent witness to substantiate their defence.

13. It is well settled that an FIR, charge sheet, final report or even the judgment of a criminal Court is not binding on the Claims Tribunal. Such materials are only pieces of evidence to be taken into consideration along with the oral and documentary evidence adduced before the Tribunal. The Tribunal is independently required to appreciate the entire evidence and arrive at its own conclusion regarding the manner of the accident and the negligence attributable to the parties.

14. In the present case, there is absolutely no contra evidence to show that the claimant alone was at fault. On considering the entire evidence available on record and also taking note of the charge sheet laid against the



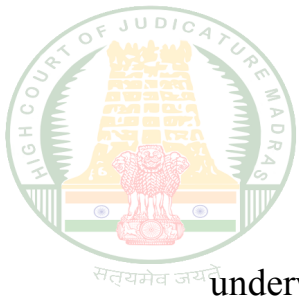
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claimant, the Tribunal has fixed the contributory negligence at 30 % on the claimant and 70% on the first respondent's rider and that the said finding cannot be found fault with.

15. Now turning to the quantum of compensation, the learned counsel for the appellant would submit that the Tribunal, without any iota of evidence, fixed the monthly income at Rs.10,000/-; that the amounts awarded under the heads of partial permanent disability, pain and sufferings, extra nourishment, attendant charges, transportation charges, loss of convenience and medical expenses are on higher side, that the Tribunal erred in taking future prospects of 40% for the injury case and that the total compensation awarded Rs. 6,72,630/- is excessive and as such, the same is liable to be interfered with.

16. It is evident from the records that the claimant suffered bone injuries on his right thigh and crush injury on his right foot and amputation of 2nd and 5th fingers on his left foot; that he was given in-patient treatment at Aristo Speciality Hospital at Madurai for the period between 07.09.2021 and 29.09.2021 and again from 16.10.2021 to 21.10.2021 and that he



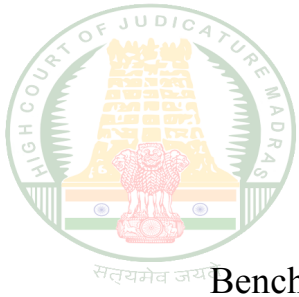
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underwent surgeries. It is further evident that the Medical Board attached to the Government Rajaji Hospital, Madurai, upon examining the claimant, issued a disability certificate under Ex.C.1, assessing partial permanent disability at 56%. The Tribunal, considering the fact that the claimant has not shown that he suffered any permanent disability or functional disability, proceeded to adopt percentage method and granted Rs.3,92,000/- (Rs.7,000 x 56) towards disability compensation and the same cannot be faulted.

17. Considering the nature of injuries and consequent disability sustained, period of treatment and other attending circumstances, the Tribunal has awarded Rs.50,000/- pain and sufferings; Rs.20,000/- for extra nourishment and Rs.11,600/- for attender charges; Rs.20,000/- for loss of convenience and Rs.10,000/- for transportation charges and the said award amounts are reasonable and the same cannot said to be excessive.

18. The Tribunal, taking note of the fact that the injured was aged 48 years and taking note of the judgment of Hon'ble Supreme Court in ***Syed Sadiq vs. United India Insurance Company Limited*** and the Division



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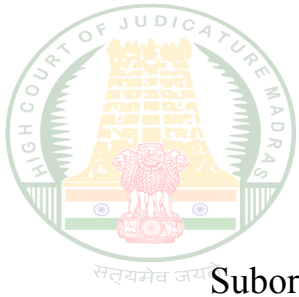
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Bench of this Court in *Andal and others Vs. Avinav Kannan and another* , has fixed the monthly income at Rs.10,000/- and grated loss of income for four months at Rs.40,000/- and the same also cannot be faulted.

19. The Tribunal taking note of the medical bills under Ex.P.5, Ex.P.6 and Ex.P.8 to Ex.P.10, has rightly awarded Rs.4,17,300/- towards medical expenses. Hence, the total compensation awarded Rs.9,60,000/- by the Tribunal cannot said to be excessive and the decision of the Tribunal directing the insurer to pay Rs.6,72,630/- being 70% of the compensation to the claimant cannot be found fault with.

20. The appellant has not shown any other reason or ground to impugn the award. Consequently, this Court concludes that the Civil Miscellaneous Appeal is devoid of merits and the same is liable to be dismissed.

21. In the result, the Civil Miscellaneous Appeal is dismissed and award dated 07.12.2024 passed in M.C.O.P.No.2217 of 2021, dated 07.12.2024 on the file of the Motor Accident Claims Tribunal cum Special



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Subordinate Court, Madurai, is confirmed. The appellant/Insurance Company is directed to deposit the entire award amount with interest at 7.5% per annum from the date of petition till the date of realization to the credit of M.C.O.P.No.2217 of 2021, dated 07.12.2024 on the file of the Motor Accident Claims Tribunal cum Special Subordinate Court, Madurai, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment and on such deposit, the claimant is permitted to withdraw the award amount with interest and costs, less amount already withdrawn, if any, on due application before the Tribunal. The parties are directed to bear their own costs. Consequently, connected Miscellaneous Petition is closed.

24.06.2026

NCC : Yes/No

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K.MURALI SHANKAR,J.

das

To

1. Motor Accident Claims Tribunal cum Special Subordinate Court,
Madurai.

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

Pre-delivery order made in
C.M.A(MD)No.563 of 2026
and
C.M.P.(MD)No.5637 of 2026

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