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C.M.A.(MD)No.645 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 27.02.2026

Pronounced on : 02.04.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.A.(MD)No.645 of 2020

and

C.M.P(MD)No.6556 of 2020

The Branch Manager,

TATA AIG General Insurance Company Ltd,

Tirunelveli.

... Appellant/2nd Respondent

Vs.

1.Saravanakumar,

S/o.Ganeshwaran,

Door No.27, Achenpudhur Street No.1 (Mekkarai),

Shencottai Taluk,

Tirunelveli District.

...1st Respondent/Petitioner

2.Kaniyappa,

S/o.Sulthan,

Door No.9/1/32, Achenpudhur Panmozhi Mekkarai,

Shencottai Taluk, Tirunelveli District.

...2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree made in MCOP.No.256 of 2015, dated 17.03.2020 on the file of the Motor Accidents Claims Tribunal, Additional Subordinate Court, Tenkasi and to allow the appeal with costs.

For Appellant

: Mr.J.S.Murali

For R1

: Mr.R.J.Karthick

For R2

: No Appearance



C.M.A.(MD)No.645 of 2020

JUDGMENT

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This Civil Miscellaneous Appeal is filed challenging the Award, dated 17.03.2020 passed in M.C.O.P.No.256 of 2015 by the Motor Accident Claims Tribunal/Additional Subordinate Court, Tenkasi.

2.The 2nd respondent/Insurance Company in M.C.O.P.No.256 of 2015 is the appellant herein. The 1st respondent is the petitioner/claimant and the 2nd respondent is the 1st respondent/owner of the vehicle in M.C.O.P.No.256 of 2015.

3.For the sake of convenience, the parties as arrayed in M.C.O.P.No. 256 of 2015 are adopted hereunder.

4. The brief facts of the case:

On 20.08.2014 at about 8.00 p.m., the petitioner, along with one Halith as pillion rider, was riding the first respondent's two wheeler/TVS Star City bearing registration number TN 76 M 1231, when it overturned in front of the house of Faark of Mekkarai. Due to the impact, the petitioner fell down and sustained injuries and a fracture in his right leg. He took first aid at the Government Hospital and then took treatment at K.P.Hospital, Tenkasi.



The 1st respondent's two wheeler was insured with the 2nd respondent/Insurance Company, and hence, he filed a claim petition seeking compensation of Rs.10,00,000/-.

5.The 1st respondent remained ex-parte before the Tribunal.

6.The 2nd respondent/Insurance Company strongly objected to the claim petition and contended that the petitioner, along with the pillion rider, was driving the motorcycle at high speed, lost control of the vehicle and fell down. The petitioner himself invited the accident. An FIR in Crime No.194 of 2014 U/s.279 and 337 of the IPC was registered against the petitioner and later, a charge sheet was also laid against the petitioner. The said case was taken on file by the competent jurisdictional Court as STC.No.17 of 2015 against the petitioner. Since the petitioner himself is a tortfeasor, he cannot file a claim for compensation against the 2nd respondent.

7.Before the Tribunal, on the side of the petitioner, the petitioner examined himself as P.W.1 and marked seven documents as Ex.P.1 to Ex.P.7. On the second respondent's side, R.W.1 & R.W.2 were examined and Ex.R.1 & Ex.R.2 were marked.



C.M.A.(MD)No.645 of 2020

8. After hearing both sides and after considering the evidence, the Tribunal has passed the impugned order, dated 17.03.2020 and held that the accident took place due to the negligence on the part of the petitioner, however, it awarded compensation of Rs.50,000/- under Personal Accident Cover against the 2nd respondent/Insurance Company.

9. Aggrieved by the said award, the 2nd respondent/Insurance Company has preferred this Civil Miscellaneous Appeal.

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

11. The learned counsel appearing for the appellant/ 2nd respondent/Insurance Company mainly argued that the accident occurred due to the negligence of the petitioner, for the said accident FIR was registered against the petitioner and a charge sheet was laid against him, copy of charge sheet is marked as Ex.R.1. The claim petition was not filed U/s.163 A of the MV Act. No third-party vehicle was involved in this accident. The petitioner is a tortfeasor, so he cannot file a claim petition before the Motor Accident Claims Tribunal. The Tribunal has not properly appreciated the evidence, but has awarded compensation under Personal



C.M.A.(MD)No.645 of 2020

Accident Cover. The petitioner sustained only 15% disability and he is not entitled to any compensation even under the Personal Accident Cover.

The policy covers only death, not injuries. 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 have adopted this 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 appellant/2nd respondent Insurance Company has relied on the decision of the Division Bench of this Court reported **2024 (2) TN MAC 305 (DB)** in the case of **TATA AIG General Insurance Company Ltd., /v/ Shanmugam.**

12.The learned counsel for the petitioner/claimant has submitted that the petitioner sustained a fracture in his right leg, and for that, 15% permanent disability was assessed, which is proved through Ex.P.7 - Disability Certificate. The petitioner is the borrower of the vehicle, so he can file a claim petition either before the Motor Accident Claims Tribunal or the Consumer Forum. A premium of Rs.50/- was paid for Personal Accident Cover for the owner/driver. So, the petitioner is entitled to Rs.1,00,000/-. The Tribunal has correctly appreciated the oral and



documentary evidence and awarded just compensation of Rs.50,000/-, which need not be interfered. Therefore, this Civil Miscellaneous Appeal may be dismissed. In support of his contentions, the learned counsel for the petitioner/claimant has relied on the following citations:

(1) 2020 ACJ 627 (Supreme Court) in the case of ‘Ramkhiladi & Anr. /v/ The United India Insurance Company & Anr.

(2) 2019 Supreme (SC) 1110 in the case of “Pruthvirajsinh Nodhubha Jadeja (died) by LR’s /v/ Jayeshkumar Chhakaddas Shah & Ors.’

(3) Order of the Hon’ble Supreme Court in SLP(C)No.5885 of 2019 in the case of ‘Manjusha & Ors. /v/ United India Assurance Company Ltd.,”

13.In reply, the learned counsel for the appellant/Insurance Company has submitted that the petitioner was the borrower of the vehicle, so he has to be termed as the owner, who is not a third party. The Division Bench of this Court, in its judgment reported in **2024 (2) TN MAC 305 (DB)**, discussed **Ramkhiladi’s case**, and held that the owner/injured cannot file a claim petition before the Motor Accident Claims Tribunal, which is not an appropriate legal Forum.



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14.On hearing both sides and on perusal of records, it is clear that the Tribunal held that the accident was taken place due to negligence on the sole part of the petitioner based on Ex.P.1 - FIR and Ex.R.1 - Charge Sheet and also the evidences of P.W.1 and R.W.1 & RW.2. This is not denied by the petitioner side also. The petitioner's side claims compensation as the 1st respondent/owner of the vehicle paid Rs.50/- towards Personal Accident Cover. Therefore, it is the main contention of the Appellant/Insurance Company that since the owner 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. The policy condition was marked as Ex.R.2. 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.

15.On perusal of rulings relied on by the 1st respondent/petitioner/claimant, it is clear that those decisions were rendered in fatal cases by granting Rs.1,00,000/- under Personal Accident Cover. Whereas this case is concerned, the petitioner sustained only injury. The 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 15%. The petitioner has not established that due



to his 15% disability, he is not able to earn, and he has lost his earning capacity. 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.

16.As per Ex.R.2 - Policy being a two wheeler policy, whether it is a package or an Act policy, there is no cover for the rider of the two wheeler. A premium of Rs.50/- provides coverage for the owner in case of death for Rs.1,00,000/-. The petitioner himself admitted that FIR and a charge sheet were filed against him. During the course of the argument, the learned counsel for the appellant/Insurance Company submitted that the petitioner pleaded guilty in the said case before the competent court. This version is not specifically denied by the 1st respondent/petitioner/claimant. A perusal of citations relied on by the appellant/Insurance Company, it is 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.



C.M.A.(MD)No.645 of 2020

17.Hence, the other aspects, such as age, avocation, etc., need not be discussed. The award passed by the Tribunal is not sustainable. The Tribunal has erred in awarding compensation of Rs.50,000/- to the claimant and the same is liable to be set aside. Therefore, the award passed by the Tribunal warrants interference and the Civil Miscellaneous Appeal has to be allowed.

18. In the result,

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

(ii)The award, dated 17.03.2020 passed in M.C.O.P.No.256 of 2015 by the Motor Accident Claims Tribunal/Additional Subordinate Court, Tenkasi is set aside. The M.C.O.P.No.256 of 2015 on the file of the Motor Accident Claims Tribunal/Additional Subordinate Court, Tenkasi 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. Consequently, the connected Civil Miscellaneous Petition is closed.

02.04.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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C.M.A.(MD)No.645 of 2020

To

- 1.The Motor Accident Claims Tribunal/
Additional Subordinate Court,
Tenkasi.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD)No.645 of 2020

P.VADAMALAI, J.

VSD

Pre - Delivery Judgment made in
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