

C.M.A(MD)No.697 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 15.04.2026

PRONOUNCED ON: 23.06.2026

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.697 of 2023

R.Murugan

: Appellant/Petitioner

Vs.

1.R.Senthil Kumar

2.M/s. United India Insurance Co. Ltd.,
represented by its Divisional Manager,
Madurai,
Door No.7-A, West Veli Street,
Madurai – 625 001.

: Respondents /Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and judgment passed in M.C.O.P.No.307 of 2017, by the Motor Accident Claims Tribunal (Special Sub Judge, Madurai), Madurai, dated 17.03.2023.



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For Appellant : Mr.A.Liakatali

For Respondents :Mr.C.Karthik
for R.2

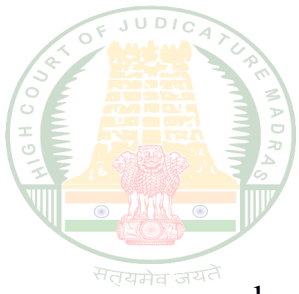
: No Appearance for R.1

JUDGMENT

This Civil Miscellaneous Appeal is directed against the order passed in M.C.O.P.No.307 of 2017, dated 17.03.2023, on the file of the Motor Accident Claims Tribunal / Special Subordinate Court to deal with M.C.O.P., cases, Madurai, in dismissing the claim petition filed under Section 140/163-A and 166 of Motor Vehicles Act.

2. For the sake of convenience and brevity, the parties will hereinafter be referred as per their status/ranking in the original petition.

3. The case of the claimant canvassed in the claim petition is that on 26.06.2016 at about 1.30p.m., the claimant travelled as a pillion rider in a two wheeler bearing Registration No.TN-59-BB-0463 ridden by one Komban @ Madasamy, that the said rider rode the two wheeler from Alanganallur to Madurai main road from North to South direction in a

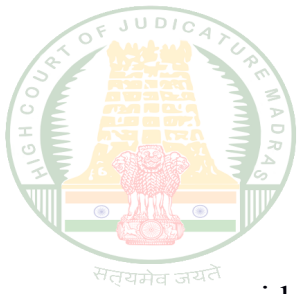


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rash and negligent manner and went to the wrong side of the road and dashed against the two wheeler bearing Registration No.TN-41-Z-3278, which came in the opposite direction and as a result of which, the claimant fell down from the two wheeler and sustained grievous injuries and that the accident was occurred only due to the rash and engligent driving of the rider of the two wheeler bearing Registration No.TN-59-BB-0463.

4. The defence of the second respondent/Insurer is that the claimant has suppressed the real manner of the accident, that while the rider of the motorcycle bearing Registration No.TN-59-BB-0463 was proceeded in a moderate speed on the proper side of Alanganallur-Madurai main road, another motorcycle bearing Registration No.TN-41-Z-3278 which came in the opposite direction in a rash and negligent manner went to the wrong side of the road and after noticing the same, the rider of TN-59-BB-0463 slowed down his speed and swerved his vehicle to the eastern side of the road and stopped the vehicle, but the rider of the other motorcycle unable to control his vehicle, dashed against the motorcycle bearing Registration No. TN-59-BB-0463 and caused the



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accident and that the rider of the motorcycle bearing Registration No.TN-41-Z-3278 was responsible for the accident and the other two wheeler rider was not at fault.

5. It is pertinent to note that in pursuance of the statement given by the claimant, while he was taking inpatient treatment at Government Hospital, F.I.R., came to be registered on 17.07.2016, in Cr.No.311/2016, under Sections 279 and 337 I.P.C., on the file of the Alanganallur Police Station, against the rider of the two wheeler bearing Registration No.TN-41-Z-3278. It is not in dispute that the vehicle bearing Registration No. TN-41-Z-3278 was found not to be traceable and that the investigation of the criminal case in Cr.No.311 of 2016 is pending.

6. The claimant who examined himself as P.W.1 has deposed about the manner of the accident reiterating his version shown in the claim petition. According to him, while he was travelling as a pillion rider in a two wheeler bearing Registration No.TN-59-BB-0463, which was ridden by Komban @ Madasamy (examined as P.W.3), the said rider rode the two wheeler in a rash and negligent manner and went to the wrong side

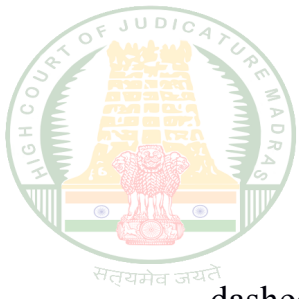


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of the road and dashed against another two wheeler bearing Registration No. TN-41-Z-3278, which came in the opposite direction. It is not in dispute that the vehicle bearing Registration No.TN-59-BB-0463 was owned by the first respondent and the same was insured with the second respondent at the relevant point of time.

7. It is the specific case of the claimant that the accident was occurred only due to the rash and negligent driving of the two wheeler ridden by P.W.3, in which, he was travelling as a pillion rider and that the rider of the other two wheeler bearing Registration No. TN-41-Z-3278 was not at fault. But the alleged rider of the two wheeler Komban @ Madasamy examined as P.W.3, has deposed about the manner of the accident as stated in the F.I.R. P.W.3 in his evidence has deposed that while he was riding the two wheeler bearing Registration No.TN-59-BB-0463, which belonged to his son-in-law, with the first respondent – claimant travelling as a pillion rider and while proceeding on the Alanganallur to Madurai main road, another two wheeler bearing Registration No. TN-41-Z-3278, came from the opposite direction in a rash and negligent manner swerved to the wrong side of the road and

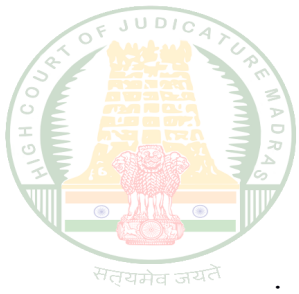


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dashed against his two wheeler , resulting in the accident. To put it in short, according to P.W.3, the accident was occurred only due to the rash and negligent riding of the two wheeler bearing Registration No. TN-41-Z-3278 and that he was in no way at fault.

8. It is pertinent to note that the second respondent/Insurer has also taken a defence, in tune with the criminal case and the evidence of P.W.3. The Insurer examined its Investigator as R.W.4, who has deposed that P.W.3 who rode the two wheeler bearing Registration No.TN-59-BB-0463 was not responsible for the accident and that therefore, the Insurer was not liable for any claim.

9. The learned Counsel for the Insurer would contend that the claimant, at the time of his admission to the Government Hospital, informed the Medical Officer that while he was driving the two wheeler, another two wheeler dashed against him and that therefore, the claimant has taken inconsistent pleas with regard to the manner of the accident and as to who was riding the two wheeler bearing Registration No.TN-59-BB-0463. The Tribunal, taking note of the contradictory



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version putforth by the claimant, came to the conclusion that the claimant himself was the tortfeasor and consequently held that the claim petition was not maintainable under Section 163A or under Section 166 of the Motor Vehicles Ac, dismissed the claim petition.

10. It is not in dispute that the claimant immediately after the accident was taken to Government Rajaji Hospital, Madurai and admitted as inpatient on 26.06.2016. In Ex.R.3 – Accident register extract, the Medical Officer who attended the claimant has specifically observed that the claimant has stated that while he was driving a two wheeler, was hit by the another two wheeler. The claimant himself summoned the medical records from the Government Rajaji Hospital, Madurai and the same was received and marked as Ex.P.6, whereunder the Medical Officer has recorded a detailed physical examination of the claimant (special case records), wherein, it was noted “a 40 years old male admitted with alleged H/o RTA (2 wheeler Vs. 2 wheeler) while he was driving in a two wheeler, which was hit by another two wheeler (bike) on 26.06.2016 at 1.45p.m., near Kumaram, Madurai.”



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11. The Insurer summoned and examined R.W.2- Dr.M.Raju, who deposed that, while he was serving as an Assistant Medical Officer in the emergency ward of Government Rajaji Hospital, on 26.06.2016, 2.35p.m., the claimant was admitted for treatment of the injuries sustained in a road accident and on enquiry, the claimant informed him that while he was driving a two wheeler, another two wheeler dashed against his vehicle at 01.45p.m., on the same day and sustained injuries.

12. It is well settled that the entries made in Government medical records carry considerable evidentiary value, particularly, when they relate to the manner of the occurrence as narrated at the earliest point of time. Such records are prepared prior to the commencement of any litigation and are less susceptible to any improvement or embellishment. It is pertinent to mention that the history of the accident recorded in the Government Rajaji Hospital records is entirely inconsistent with the case canvassed in the claim petition. Notably, the claimant has not offered any explanation as to how the medical records contained such a recital that he himself was driving the motorcycle, if in fact, he had only travelled as a pillion rider.



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13. As already pointed out, R.W.2 the medical officer who attended the claimant at the Government Rajaji Hospital and made the entries in the accident register, has categorically deposed that the history of the accident furnished at the time of admission was recorded as “while driving a two wheeler, another two wheeler hit him”. Though R.W.2 was subjected to cross-examination, nothing was elicited to discredit either his testimony or the entries made by him in the medical records.

14. It is pertinent to note that F.I.R., came to be registered only on 17.07.2016, on the basis of the statement recorded from the claimant on 17.07.2016 and that the delay of about 22 days in lodging the complaint assumes importance. The claimant has not offered any reason or explanation for not lodging the complaint immediately either, by himself through P.W.3, who is alleged to have ridden the two wheeler, or through any of his family members. No doubt, the delay in lodging the F.I.R., by itself is not fatal to a claim under the Motor Vehicles Act, but where the version contained in the delayed F.I.R., is found to be at variance with the earliest medical records regarding the manner of occurrence, the



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Court is certainly entitled to scrutinize the version of the claimant with greater caution.

15. It is pertinent to note that the medical records came into existence immediately after the accident and much prior to the registration of the F.I.R. As rightly contended by the learned Counsel for the Insurer, the entries in the medical records were made in the ordinary course of professional duty Government Medical Personnel having no interest in the outcome of the litigation. As already pointed out, the delayed F.I.R., instead of corroborating the claimant's case, canvassed a contrary stand, than that of the recital found in the medical records.

16. Considering the above, the cumulative effect of (i) the claimant's statement recorded in the Government Hospital when he was driving the motorcycle; (ii) the consistent entries found in the accident register and treatment records; (iii) the testimony of the medical officer, who proved those records; (iv) the claimant's admission regarding the absence of a driving licence; (v) the delayed registration of F.I.R., after

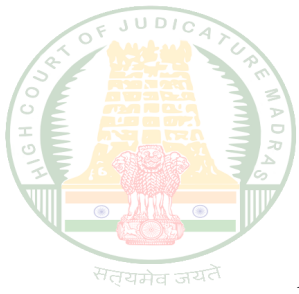


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22 days, probablise the stand of the insurer that the true manner of the occurrence has not been disclosed.

17. Moreover, as already pointed out, the evidence of P.W.1 and that of P.W.3 are mutually contradictory with regard to the manner of accident. Though the claimant has taken a stand in the F.I.R., that the accident was caused by the rider of the two wheeler bearing Registration No.TN-41-Z-3278, he subsequently filed the claim petition and gave evidence before the Tribunal to the effect that P.W.3 alone had caused teh accident and not the rider of the two wheeler bearing Registration No.TN-41-Z-3278. On the other hand, P.W.3 deposed in tune with the version shown in the F.I.R., by stating that the rider of the two wheeler bearing Registration No.TN-41-Z-3278 alone was responsible for the accident and he was not at fault. Admittedly, the owner and the insurer of the two wheeler bearing Registration No.TN-41-Z-3278 have not been impleaded as parties to the proceedings. No doubt, their non-impleadment by itself is not fatal to the claim petition. But in the case on hand, the claimant has come forward with mutually inconsistent versions



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regarding the manner of the occurrence and as also who was riding the two wheeler bearing Registration No.TN-59-BB-0463.

18. It is no doubt true that in proceedings arising under the Motor Vehicles Act, the standard of proof is one of preponderance of probabilities. Even while applying the said principle, the claimant is expected to place before the Tribunal a consistent and probable version of the occurrence. As already pointed out, the contradictory stands taken by the claimant regarding the identity of the rider of the two-wheeler bearing Registration No. TN-59-BB-0463 as well as the manner in which the accident occurred render the claimant's case inherently doubtful.

19. Considering the above, the finding of the Tribunal that the claimant has failed to prove the case pleaded by him cannot be found fault with. Consequently, this Court concludes that the Civil Miscellaneous Appeal is devoid of merits and the same is liable to be dismissed.



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20. In the result, the Civil Miscellaneous Appeal is dismissed. The parties are directed to bear their own costs.

23.06.2026

NCC : Yes : No
Index : Yes : No
Internet : Yes : No

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To

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



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K.MURALI SHANKAR,J.

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PRE-DELIVERY JUDGMENT MADE IN

C.M.A(MD)No.697 of 2023

23.06.2026