

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 23.12.2016

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.2782 of 2016

and

CMP.No.20159 of 2016

United India Insurance Co.Ltd.,
Third Party. Hub,
Sillingi building, No.134, Greams Road,
Murugesu Naicker Street,
Chennai-600 006. .. Appellant/2nd Respondent

Versus

1. Mohanraj
2. Subramani .. Respondents/Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 as against the decree and judgment dated 10.04.2015 made in M.C.O.P.No.4450 of 2012 on the file of Motor Accident Claims Tribunal (The IV Small Causes Court, Chennai), Chennai.

For appellant : Mr.C.Paranthaman

For respondents : Mr.K.V.Muthu Visakan

J U D G M E N T

The appellant/nsurance Company has filed this Appeal challenging the quantum of compensation awarded in respect of injuries sustained by the Claimant in the accident that occurred on 08.08.2012.

2. The claimant, aged 22 years, who was a pillion rider in the vehicle, which met with an accident, has filed the claim petition in M.C.O.P.No.4450 of 2012, claiming a sum of Rs.1,50,000/- as compensation for the injuries sustained by him. Considering the nature of injury, period of treatment and the consequences arising out of this accident, a sum of Rs.50,000/- has been awarded. Challenging the same, the Insurance Company has filed this appeal.

3. The main contention of the learned counsel for the appellant is that when the pillion rider having travelled in the vehicle driven by the driver, who was under the influence of alcohol, knowingly, the insurance company/appellant is not bound to pay any compensation under the terms of the policy.

4. It is not in dispute that the driver was under the influence of alcohol, as is revealed from the accident report. However, no evidence has been let in by the appellant/insurance company to show that the pillion rider had any knowledge that the driver of the vehicle had been under intoxication. Even for the sake of argument it is accepted that the pillion rider, viz., the present claimant, had knowledge about the driver of the motorcycle being under the influence of alcohol, negligence, in no manner, can be fastened upon the pillion rider as a contributory factor. The driver of the motorcycle alone, if under the influence of alcohol, would be the best person to know about his faculties in driving and controlling the vehicle and the pillion rider cannot be expected to be aware of the faculties of the driver to drive the vehicle. Further, no dispute having been raised with regard to the comprehensive nature of the policy, the pillion rider, who is a third party, cannot be fastened with any liability for negligence. When a person is in no way connected with the causing of the accident, but has suffered bodily injury in the accident as a third party, it is the duty of the insurance company to indemnify the insured and pay the compensation to the claimant. In the case on hand, the pillion rider being in no way fastened with liability for contributing to the accident and there being no dispute as to the comprehensive nature of the policy, the insurance company cannot disown its liability to pay the compensation as awarded by the Tribunal. Accordingly, no interference is called for with the the award passed in M.C.O.P.No.4450 of 2012 and the same stands confirmed.

5. In the result, this Civil Miscellaneous Appeal is dismissed, confirming the Judgment and Decree, dated 10.04.2015 made in M.C.O.P. No.4412 of 2012 on the file of Motor Accident Claims Tribunal (IV Small Causes Court), Chennai. Consequently, connected Miscellaneous Petition is closed. However, there shall be no order as to costs.

6. The appellant/Insurance Company is directed to deposit the entire award amount, less the amount, if any, already deposited, together with interest from the date of claim petition till the date of deposit to the credit of the claim petition within a period of four weeks from the date of receipt

of a copy of this order. On such deposit being made, the Tribunal shall the same to the Bank Account of the claimant through RTGS within a period of two weeks thereafter.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

arr/GLN

To

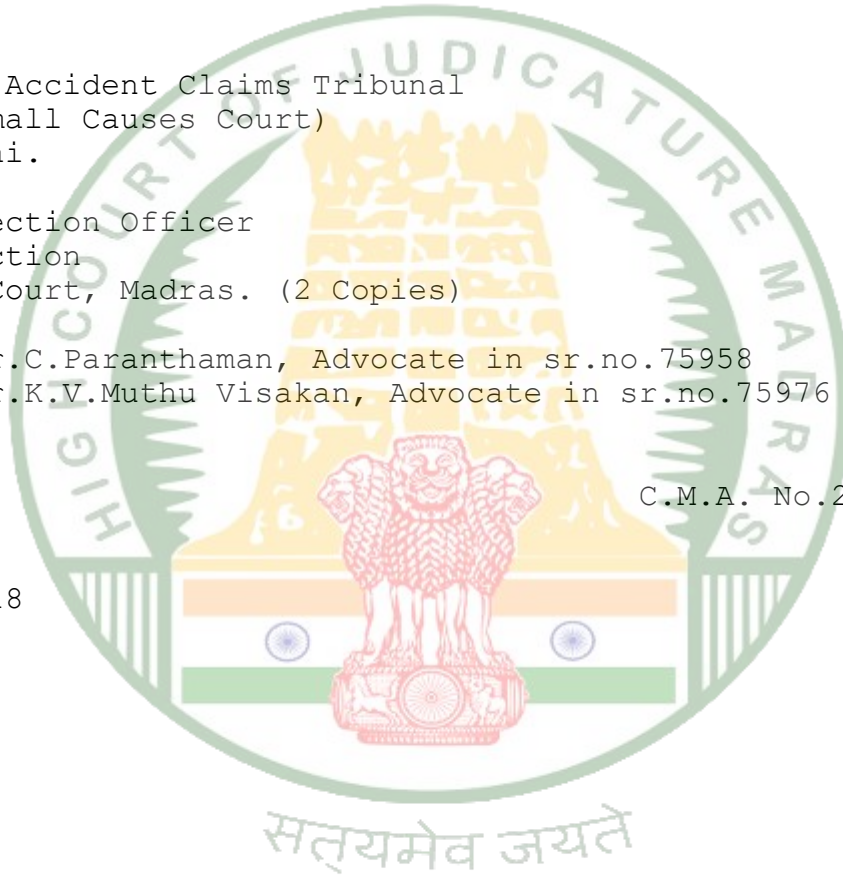
1. Motor Accident Claims Tribunal
(IV Small Causes Court)
Chennai.
2. The Section Officer
VR Section
High Court, Madras. (2 Copies)

+1cc to Mr.C.Paranthaman, Advocate in sr.no.75958

+1cc to Mr.K.V.Muthu Visakan, Advocate in sr.no.75976

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MG (CO)
CS/14/02/18



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