

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 24.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.1748 of 2008
and MP.No.1 of 2008

United India Insurance Co. Ltd.,
Branch Office,
Periakadai Street,
Dharapuram Post. ... Appellant/ 2nd Respondent

Vs.

1.Eswaramoorthy
2.Shanmugasundaram
3.Balusamy ... Respondents/ Petitioners/
[Respondents 2 & 3 ex parte] Respondents 1 & 2

Prayer : Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.207 of 2002, dated 08.10.2004 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Dharapuram.

For Appellant : Mr.N.Vijayaraghavan

For Respondents : Mr.C.Prakasam [for R1]
R2 & R3 Ex parte

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the Insurance Company on the ground that pillion rider / injured claimant was not covered under Section 147 of Motor Vehicles Act and the insurer had issued only an Act Policy.

2. However, it is found that in the counter statement filed by the insurer in the typed set of papers, no such pleading has been availed.

3. In addition, it is found that the appellant insurer has also not filed the certified true copy of policy of insurance with regard to the said defence.

4. In the absence of such pleadings and evidence, the award for Rs.75,000/- for injuries payable by the insurer cannot be interfered with. Hence this appeal is dismissed. No costs.

5. It is stated by the appellant that the entire award amount has already been deposited before the Tribunal and the claimant is entitled to withdraw the same forthwith.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

ds

To:

The Motor Accident Claims Tribunal,
Subordinate Court, Dharapuram.

1 cc to Mr.M.B. Gopalan, Advocate, Sr. 69275

C.M.A.No.1748 of 2008

SR (CO)
kk 27/12



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