

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2017

C O R A M

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.M.A.No.587 of 2017 and

C.M.P.No.3500 of 2017

The Oriental Insurance Co.Ltd.,
represented by its Divisional Manager,
United India Building, 4th floor,
No.4, Esplanade, Chennai. Appellant/2nd Respondent

/vs/

1 . Velmurugan 1st Respondent/Petitioner

2 . Antonidass 2nd Respondent/1st Petitioner

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Award passed in M.C.O.P.No.228 of 2014 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Karaikal on 13.04.2016.

For Appellant ... Mr.N.Vijayaraghavan,

J U D G M E N T

The Insurance Company has preferred the above appeal, questioning only its liability in the Motor Accident Claim Award passed in M.C.O.P.No.228 of 2014 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Karaikal on 13.04.2016.

2. The Claimant was working as an Operation Assistant in a Private Company. On the date of accident, he was going to his office in the motor cycle bearing registration No. PY-01/BH-0218 belonging to the second respondent, who is the owner of the vehicle and also an employer. However, he was hit by the first respondent, who drove the Hero Honda CD Dawn Vehicle and

sustained injuries. He has now made a claim for Rs.5,00,000/- for the injuries sustained and an award was passed for a sum of Rs.2,32,000/-. The said award is being challenged by the Insurance Company on the ground that the policy, as on the date of the accident, did not cover such liability and therefore, the liability cannot be fastened on the Insurance Company.

3. The accident and the manner of the accident are not disputed. The quantum of the Award is also not challenged. It is only, the liability on the ground that there is a violation of the policy condition and there is no coverage for the injured as he was not the owner of the vehicle. A copy of the Insurance Certificate is marked as Ex.P4 and a copy of the Accident Inspection Report is marked as Ex.P6. The appellant had also marked a copy of the Investigation Report as Ex.R1.

4. According to the appellant, the insurance coverage is only for the registered owner of the vehicle involved in the accident and not to the employee of the registered owner. Admittedly, the claimant was an Operation Assistant, employed with the owner of the vehicle and he had taken the vehicle on the date of accident for official purpose. The Investigation Report filed as Ex.R1, does not mention about the statement made by the appellant regarding the coverage of the insurance to the employee of the Firm. A perusal of Ex.P.4, which is the Insurance Certificate, also does not mention the condition precedent as stated by the appellant. The policy is said to cover "use only" under a permit within the meaning of the Motor Vehicles Act, 1988 or such a carriage falling under Sub-Section 3 of Section 66 of the Motor Vehicles Act, 1988. As Section 66(3) of Motor Vehicle Act, 1988 pertains to carriages, the same is not applicable to passenger vehicles.

5. The Tribunal has held that riding of a Motor Cycle other than a registered owner will not amount to violation of the policy condition. Further, in the policy, it is stated "Use only for social, domestic and pleasure purpose and for the insured's business of profession". The employee of the Registered Owner had used the vehicle only for the business or professional purpose. The argument of the Insurance Company that the policy coverage will not extend to the employee of the registered owner, is not sustainable. It is not the case of the appellant that the petitioner did not have a valid license to ride the Motor Cycle on the date of accident and that the policy was not in force. The Motor Accidents Claims Tribunal had fastened the liability on the Insurance Company disagreeing with the arguments of the appellant. Though the appellant/Insurance Company had obtained permission under Section 173 of the Motor Vehicles Act, to challenge the liability, in the absence of the insured, as there is no merits in the appeal, the same is

dismissed, confirming the award of the Motor Accidents Claims Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

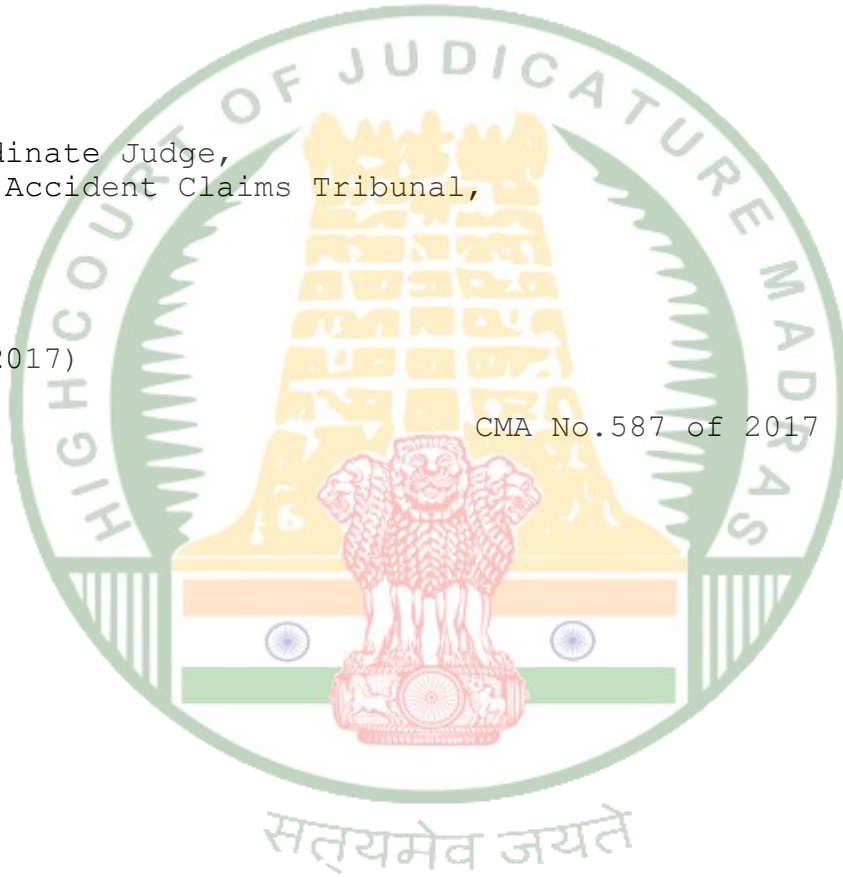
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To

The Subordinate Judge,
The Motor Accident Claims Tribunal,
Karaikal.

cnr(CO)
md(12/04/2017)

CMA No.587 of 2017



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