

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2017

CORAM : THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

CMA.No.1024 of 2013
and MP.No.1 of 2013

The Divisional Manager,
United India Insurance Company Ltd.,
Vellore.

... Appellant/2nd respondent

Vs.

1.Eswari

... 1st Respondent/Petitioner

2.G.Sekar

... 2nd Respondent/1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the award and decree dated 22.10.2010 made in M.C.O.P.No.563 of 2007 on the file of the Motor Accidents Claims Tribunal (Sub Court), Tirupattur, Vellore District.

For Appellant : Mr.D.Bhaskaran

For Respondents : R1 - No Appearance

R2 - Dismissed vide order dated 30.09.2015

JUDGMENT

The Insurance Company that faces liability to pay a compensation of Rs.40,000/- for the injuries suffered by a pillion rider in a road accident has come forward with the present appeal.

2. On 10.9.2007 at about 1.30 p.m in the afternoon, the claimant was travelling as a pillion rider in a two wheeler driven by her husband. At that time, the motor cycle owned by the first respondent before the Tribunal, was driven by its driver rashly and negligently and dashed against the first mentioned two wheeler, owing to which the claimant suffered grievous injuries. Seeking a compensation of Rs.5,00,000/- under various heads, the claimant approached the Tribunal, but the Tribunal by the impuged order has awarded him Rs.40,859/- with interest @ 7.5% per annum.

3. The only defence of the Insurance Company is that the driver of the second respondent herein/first respondent before the Tribunal did not possess a valid driving licence, that it is a violation of policy condition and consequently no liability can be fastened on the Insurance Company. This is negated by the Tribunal and it awarded a sum of Rs.40,859/- as compensation.

The Insurance Company has now preferred this appeal challenging the same.

4. As already indicated the Motor Accident Claims Tribunal has made its award as stated above, but as to the contention of the Insurance Company, it did find that the driver of the first respondent before the Motor Accident Claims Tribunal has no valid licence, but still passed the award directing the Insurance Company to pay the compensation award and to recover the same from the owner of the vehicle.

5. The learned counsel for the appellant submitted that the only point the appellant has raised in this case relates to its objection to the doctrine of pay and recover as has been juridicially evolved. However, this controversy has been settled vide a decision of this Court in Iffco Tokyo General Insurance Co. Ltd., Vs. A.Jafer Sadiq & Others [2012(1) TN MAC 394 (DB)]. Hence, this Court finds no merit in the appeal and the same is dismissed with a direction to the Insurance Company to deposit the amount awarded, less any amount if any, already deposited in Court within four weeks from the date of receipt of a copy of this order and on such deposit, the claimant is entitled to withdraw the same forthwith. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To :

- 1.The Motor Accidents Claims Tribunal
Sub Court, Tirupattur, Vellore District.
- 2.The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.D.Bhaskaran, Advocate, S.R.No.65251

CMA.No.1024 of 2013

RSK(CO)
GN(21/08/2017)