

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGEMENT RESERVED ON :25.11.2016

JUDGEMENT PRONOUNCED ON : 15.09.2017

CORAM : THE HON'BLE MR.JUSTICE N.SESHASAYEE

C.M.A.NO.1729 OF 2008
AND MP.NO.1 OF 2008

The Branch Manager,
The Oriental Insurance Co. Ltd.
F-1, Block -1, Visitors Road,
Neyveli.

... Appellant/Respondent

Vs

Mathialagan

.. Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgement and Decree made in MACT O.P.No.59 of 2004 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge) at Panruti dated 03.04.2007.

For Appellant : Mr.M.Krishnamoorthy

For Respondent : No appearance

J U D G M E N T

The insurance company of a motor cycle has come forward with this appeal challenging its liability to pay compensation of Rs.50,000/- awarded by the Motor Accidents Claims Tribunal, [Sub Court, Panruti] in MACT.OP.No.59 of 2004.

2. The brief facts are : On 25.02.2004 at about 11.15 a.m., the claimant was travelling in his motor cycle as a pillion rider and suffered injuries to his person in an accident occasioned due to the negligence of his rider Ravichandran. He sought compensation of Rs.5,00,000/- from his insurer, whereas the Tribunal has passed an award for consolidated sum of Rs.50,000/- without any specific break-up.

3. The solitary point raised by the insurance company was that the policy does not cover injury to the owner of the vehicle and the insurance covering personal accident claims is limited only to loss of limbs or vision etc., and that the same

does not apply to the present claimant, since he has not suffered any of those loss.

4. It is not in dispute that the claimant had travelled in the bike as a pillion rider. It is also an admitted fact that Ext.R1/policy covers personal accident claims. There is no defence that the insured is not entitled to compensation when he travelled as a pillion rider. To contend that the claimant would be entitled to compensation only when he suffers loss of limbs but not any injury short of any permanent disability does not appear appropriate. IMT 15 on which much reliance was placed by the insurance company only deals with scales of compensation in terms of percentages and does not per se deal with a claimant's entitlement for compensation. Taking into consideration the facts and circumstances of the case there is no merit in the appeal and the same is liable to be dismissed.

5. In the result, the appeal is dismissed and the award of the Tribunal is confirmed. The appellant/insurance company is directed to deposit the award amount of compensation along with accrued interest, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this order, whereupon, the claimant is entitled to withdraw the same forthwith. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (cs vi)

//True Copy//

Sub Assistant Registrar

ds

To:

1. The Sub Judge,
Motor Accidents Claims Tribunal
Panruti.

Copy To
The Section Officer,
VR Section, High Court of Madras,
Chennai.

CMA.No.1729 of 2008

PPA(CO)
CS/07/02/18