

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2017

CORAM : THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

CMA.No.2827 of 2012

and MP.No.1 of 2012

The Divisional Manager,
United India Insurance Company Ltd.,
T.K.M.Complex,
Katpadi Road, Vellore.

Appellant/2nd Respondent

Vs.

1.Saroja
2.K.Chinnaraj

1st Respondent/Petitioner
2nd Respondent/1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the award and decree dated 24.02.2011 made in O.P.No.627 of 2006 on the file of the Motor Accidents Claims Tribunal (Sub Court), Tirupattur.

For Appellant : Mr.D.Bhaskaran

For 1st Respondent : Mr. P.A. Sudesh Kumar

For Iind Respondent : No Appearance

JUDGMENT

On 25.5.2006 at 8.30 am., the claimant who was travelling as a pillion rider in a motorcycle bearing registration No.TN23 K 0783 driven by her husband met with an accident on a road proceeding to Thanjanan Taluk from Kurisilampatti, due to the rash and negligent driving of the offending motorbike (Hero Honda Splendor) bearing registration No.TN23 FY 0457, and in the said accident her husband sustained grievous injuries. For the injuries suffered by her, the claimant/wife had approached the Tribunal with a claim of Rs.50,000/-, whereas the Tribunal has awarded a sum of Rs.30,000/- payable with interest @ 7.5% per annum. The tribunal in it award has applied the doctrine of pay and recover on the insurance company, aggrieved which the Insurance company is before this Court.

2. The learned counsel for the Insurance Company had pleaded that owner of the offending vehicle had allowed his son to drive the vehicle, but however, he did not possess a valid driving licence .

3. Considering the facts before it, the Tribunal has passed a qualified award against the Insurance Company by applying the doctrine of 'pay and recovery'.

4. On perusing the record and as a last chance today, I find nothing illegal in the order of the Tribunal in applying the doctrine of "pay and recovery". Accordingly, I find no merit in the appeal and the same is dismissed without costs. The Insurance Company is directed to deposit the amount awarded by the Tribunal within four weeks from the date of receipt of a copy of a order, if not already deposited and then it can realise the same from the owner of the offending vehicle / second respondent herein. The claimant is permitted to withdraw the award sum with accrued interest forthwith. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ds

To:

1. The Motor Accident Claims Tribunal
Sub Court, Tirupattur

2. The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.D. Bhaskaran, Advocate, S.R.No.6526

+1cc to Mr.P.A. Sudesh Kumar, Advocate, S.R.No.6536

ak(CO)

md(23/03/2017)

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