

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3642 of 2008

and

M.P.No.1 of 2008

United India Insurance Co. Ltd.,
38, Anna Salai,
Chennai - 2.

.. Appellant/2nd Respondent

Vs.

1.Lakshmi

..1st Respondent/Petitioner

2.K.Muralikumar

..2nd Respondents/1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 28.04.2008 made in M.C.O.P.No.190 of 2006 on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Court, Fast Track Court No.IV, Poonamallee.

For Appellant : Mr.S.Arunkumar

J U D G M E N T

This appeal is preferred by the appellant Insurance Company against the award of a sum of Rs.20,000/- towards compensation to the 1st respondent, due to the injuries suffered by her in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 12.02.2006 at about 7.40 pm, when the 1st respondent was riding as pillion rider in a scooter, bearing Registration No.TN-07-B-8112 from East to West on M.T.H. Road, nearby Agathiyar Nagar Road junction, the scooter skidded down on the road and the 1st respondent sustained grievous injuries all over the body. Stating that the accident had occurred only due to the rash and negligent riding of the rider of the scooter, she filed a claim petition claiming a sum of Rs.2,00,000/- as compensation. On consideration of the materials

and evidence available on record, the Tribunal has awarded a total compensation of Rs.20,000/- with interest at 7.5% pa from the date of claim petition.

3.Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant Insurance Company, even though, not questioned the quantum of compensation awarded by the Tribunal, submitted that the insurance policy for the two-wheeler in question, is an 'Act Policy' and there is no risk to cover pillion rider and hence the Insurance Company is not liable to pay any compensation to the claimant.

5.Heard the learned counsel for the appellant and perused the materials available on record.

6.Though this appeal was admitted way back in the year 2008, the appellant has not taken any steps to serve papers to the other side, even at this length of time. However, due to paucity of time, this appeal is taken up for final disposal on merits.

7.It was put forth on the side of the appellant insurance company before the Tribunal that the first respondent being the pillion rider, is not eligible to claim compensation from the insurance company, as no special premium was paid for the same. The Tribunal has considered Ex.R2-insurance policy, which is a liability policy covering the risk of third party for bodily injury or death and property damage, besides including personal accident coverage for owner as well as the rider. Further, the Tribunal has taken note of the facts that normally two persons travel in a two wheeler; the owner of the vehicle paid basic premium covering the risk of the pillion rider; there was no specific mention in the insurance policy that the risk of the pillion rider is not covered; and the rider of the two wheeler drove the vehicle with valid driving licence and has rightly concluded that the appellant insurance company is liable to compensate the claimant, which finding this Court is not inclined to interfere.

8.Since the quantum of compensation awarded by the Tribunal is not disputed by the appellant insurance company, the same is confirmed as such.

9.In the result, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant/insurance company is directed to deposit the entire award amount along with interest and costs, less the amount already deposited, if any, within a period of four weeks from

the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the same to the savings bank account of the first respondent/claimant through RTGS, within a period of one week thereafter.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Additional District and Sessions Judge,
Motor Accidents Claims Tribunal,
(Fast Track Court No.IV)
Poonamallee.

2.The Section Officer,
VR Section,
High Court,
Madras-104.

+1 CC to Mr.S.Arunkumar, Advocate sr 62921.

C.M.A.No.3642 of 2008

RSV(CO)
SP(02/09/2020)