

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.3421 of 2010
and M.P.Nos.1 and 2 of 2010

United India Insurance Co.Ltd.,
No.38, Anna Salai,
Chennai-600 002. Appellant/2nd Respondent

vs.

1.M.Desappan1st Respondent/Petitioner

2.A.Ebeneser Paul 2nd Respondent/1st Respondent
(R2 set exparte in Lower Court)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 23.12.2009 made in MCOP.No.3524 of 2003 on the file of the Motor Accident Claims Tribunal / V Judge, Court of Small Causes, Chennai.

For Appellant : Mr.M.Krishnamurthy

For Respondents : No Appearance

J U D G M E N T

The Appellant - Insurance Company, the 2nd respondent in M.C.O.P.No.3524 of 2003 on the file of the Motor Accident Claims Tribunal / V Judge, Court of Small Causes, Chennai has filed the present appeal.

2. The 1st respondent / claimant filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.2,00,000/- for the injuries sustained by him in a road accident which took place on 11.11.2002.

3. The case of the claimant in nutshell is as follows:

On 11.11.2002, the claimant/1st respondent was a pillion rider in a motor cycle bearing Registration No.TN-07-J-0218 and was proceeding towards Adyar from Neelankarai on East Coast Road, Palavakkam, Kanchipuram District and at about 10.00 Hours, the rider of the motor cycle rode the vehicle rashly and applied sudden brakes, as a result of which the claimant fell down and sustained grievous injuries all over

his body. According to the claimant, the rash and negligent riding of the rider of the motor cycle was the cause of the accident and that since the owner of the two wheeler had insured his vehicle with the present appellant, the owner and the insurer of the vehicle are jointly and severally liable to pay compensation.

4. The Tribunal, after analysing the evidence on record, awarded a compensation of Rs.1,00,800/- together with interest at the rate of 7.5% p.a. and directed both the owner and insurer to pay compensation jointly and severally. Aggrieved over the orders passed by the Tribunal, the appellant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. The learned counsel for the appellant/Insurance Company contended that since the policy of insurance is an Act policy, the pillion rider would not be covered and he is not entitled to get any compensation from the Insurance Company. It is pertinent to point out that this plea was not taken by the Insurance Company in the counter filed before the Tribunal. A copy of the policy was neither filed before the Tribunal nor in the present appeal. Therefore, I do not see any reason to interfere with the findings recorded by the Tribunal.

6. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO MDU)

//True copy//

Sub Assistant Registrar

ssn

To

1. The Motor Accidents Claims Tribunal,
V Judge, Court of Small Causes, Chennai.
2. The Section Officer,
V.R.Section, High Court, Chennai.

+lcc to Mr.M.Krishnamurthy, Advocate SR.No.90295

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and
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MR (CO)

<https://hcservices.courts.gov.in/hcservices/>
GMI (18/08/2020)