

IN THE HIGH COURT OF JUDICATURE AT MADRAS
RESERVED ON : 08.04.2019
DELIVERED ON : 21.08.2019
CORAM:
THE HONOURABLE Mr. JUSTICE RMT.TEEKA RAMAN
CMA.No.1586 of 2012
and
MP.No.1 of 2012

M/s.ICICI Lombard General
Insurance Co. Ltd.,
No.140, Nungambakkam High Road,
Chennai - 600 034.

...Appellant/2nd Respondent

vs.

1.L.Sivaranjan
2.Rajendra K. Sheth

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

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 25.03.2011, made in MCOP.No.782 of 2007, on the file of the Motor Accidents Claims Tribunal (Additional District Judge) (Fast Track Court No. I) at Poonamallee.

For Appellant : Mrs.R.Sreevidhya

For Respondents : Mr.K.Varadha kamaraj for R1
R2 - Exparte

JUDGMENT

This Civil Miscellaneous Appeal is filed by the ICICI Lombard General Insurance Company Limited challenging the Judgment and decree passed in MCOP.No.782 of 2007, on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No. I at Poonamallee.

2. The first respondent/claimant filed a claim petition alleging that on 27.04.2007, at about 00.30 am, when he was travelling as a pillion rider in a motorcycle bearing Registration No. TN 07 X 0285 on Sardar Patel road, opposite to Raj Bhavan, the rider of the motorcycle, drove the vehicle in a rash and negligent manner and hit the Ambassador car bearing Registration No. TN 09 X 4726. Due to the accident, he fell down and sustained multiple grievous injuries.

3. The appellant/Insurance Company filed a counter statement before the Tribunal alleging that at the time of the accident, the injured was travelling as a pillion rider while the rider of the two wheeler did not possess valid driving licence to ride the said vehicle and hence, the Insurance Company is not liable to pay the compensation.

4. Based on the documentary and oral evidences adduced, the Tribunal has awarded a sum of Rs.5,75,000/- together with interest at the rate of 7.5% per annum to the first respondent/claimant and directed the appellant/Insurance Company to pay the same. Aggrieved over the same, the ICICI Lombard General Insurance Company Limited has filed the present appeal questioning their liability to pay the compensation to the claimant.

5. The factum of the accident, involvement of the vehicle, rash and negligence on the part of the rider of the two wheeler are not in dispute and hence, the finding to that effect by the Tribunal is hereby confirmed. The attention of this Court was drawn to the evidence of PW3, an Assistant from RTO office, who has deposed that on the date of the accident, the rider of the two wheeler possessed LLR. On behalf of the Insurance Company, an Assistant from the Insurance Company was examined as RW1, Charge Sheet (Ex.R1) and also a copy of the Judgment of the Criminal Court (Ex.R2) have been marked, wherein, the rider of the motorcycle pleaded guilty for non-possession of Driving Licence. As per the evidence of PW1 and as per Copy of learner's licence (Ex. P8) the rider of the said motorcycle possessed LLR and the said finding is under challenge before this Court.

6. After perusing the documentary evidence of Ex.P8, it is seen that LLR was issued to the rider of the vehicle and the same is valid from 23.03.2007 to 22.09.2007. In other words, on the date of the accident ie., on 27.04.2007, the rider of the vehicle possessed LLR. In view of the decision in National Insurance Company Limited vs. Swaran Singh & others reported in 2004 1 TN MAC 104 (SC), the LLR licence is sufficient and accordingly the Insurance Company is liable to pay compensation in this matter.

7. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is also closed.

(ii) The order passed by the Tribunal is hereby confirmed. The quantum of compensation awarded by the Tribunal is also hereby confirmed.

(iii) The appellant herein/ICICI Lombard General Insurance Company Limited is directed to deposit the entire compensation awarded by the Tribunal i.e., Rs.5,75,000/- (if not already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.782 of 2007, dated 25.03.2011, on the file of the learned Motor Accidents Claims Tribunal, Fast Track Court No.1, Additional District and Sessions Judge, Poonamallee within a period of eight weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the first respondent / claimant is permitted to withdraw the entire amount after following the due process of law.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Motor Accidents Claims Tribunal,
Fast Track Court No.I,
Additional District and Sessions Judge,
Poonamallee.

+1 cc to Mr.K.Varadhakamaraj Advocate sr72586

+1 cc to Mr.K.Sreevidhya Advocate sr72823

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CMA.No.1586 of 2012

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