

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2250 of 2011

The Branch Manager,
Uniter India Insurance Company Limited,
No.23-E, E.V.R.Road,
Pudhur, Trichy - 620 017.

... Appellant/2nd Respondent

Vs.

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

2.Marimuthu

3.G.Baskaran

4.R.Peter

5.The Branch Manager,
National Insurance Company Limited,
Branch Office,
No.53, Promanade Road,
Contonment, Trichy - 620 001.

(Respondents 3&4 are set exparte in Lower Court)

...3 to 5th Respondents/
1st, 3 & 4th Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 06.09.2010 made in M.C.O.P.No.738 of 2008 on the file of the Motor Accident Claims Tribunal (Additional District Judge) at Dharmapuri.

For Appellant : Mrs.R.Sreevidhya

For R1&R2 : Mukund R.Pandiyan

JUDGMENT

The 2nd respondent-Insurance Company before the Tribunal, is the appellant herein. This Civil Miscellaneous Appeal has been filed against the order and Decree dated 06.09.2010 made in M.C.O.P.No.738 of 2008 on the file of the Motor Accident Claims Tribunal (Additional District Judge) at Dharmapuri.

2. The respondent 1&2's son was travelling as a pillion rider in the TVS No.TN 51 U 5567. One Gopalakrishnan was riding the said vehicle. At that time, Bajaj Kawaski bearing Registration No.TN 48 C 4674 came fast and dashed against the TVS Suzuki and caused the accident.

3. In the said accident, Ganeshkumar aged about 19 years who was a pillion rider in TVS moped bearing Registration No.TN 48 C 4674 had died. The Tribunal has awarded a sum of Rs.4,25,000/- as compensation

4. Aggrieved by the said award of compensation, the Insurance Company has preferred this appeal on the ground of liability as well as the quantum. The learned counsel for the appellant-Insurance Company would submit that the rider of the vehicle was holding only LLR at the time of the accident. Therefore, in the absence of any regular licence as required under the Motor Vehicle Act, the Insurance Company cannot be held liable. It is also contended that the accident has taken place not due to the rash and negligent driving of the driver of the TVS Moped and only the deceased was travelling negligently.

5. Before the Tribunal, P.W.2 the occurrence witness had clearly deposed about the manner of the accident and taking into consideration of version of P.W.2 occurrence witness, coupled with Exhibit P1 F.I.R, the Tribunal has come to the conclusion that the accident has taken place due to the rash and negligent driving of the driver of the TVS Moped namely Gopalakrishnan who was riding TVS moped and the said finding does not warrant any interference.

6. Admittedly, at the time of the accident, the rider of the two wheeler was having the LLR licence and in view of the settled proposition of law, whether the Insurance Company is liable to pay the compensation when the driver of the offending vehicle does not have valid licence as per Motor Vehicle Act and possessed only LLR is no longer res integra. It is held that Insurance Company is liable.

7. In view of the settled position by the Hon'ble Supreme Court that the LLR licence is also a valid licence

issued under the Motor Vehicle Act, this Court is of the considered view that the finding of the Tribunal that the R3 and appellant-Insurance Company is also liable to pay the compensation and hence, in this view of the matter, there are no merits in this case as quantum is also found to be reasonable.

8. In view of this matter, this Civil Miscellaneous Appeal is dismissed. The Insurance Company has submitted that the entire amount has already been deposited. It is open to the claimant to file petition before the Tribunal for withdrawal of the compensation amount. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District Judge,
The Motor Accident Claims Tribunal,
Dharmapuri.

Copy To

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

+lcc to Mukund R.Pandiyan, Advocate, S.R.No.16783

+lcc to Mrs.R.Sreevidhya, Advocate, S.R.No.17795

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GP(CO)
CS/05/07/2019

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