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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2825 of 2011

and

M.P.No.1 of 2011

(Through Video Conferencing)

United India Insurance Co. Ltd.,
No.19, Andiappa Gramani Street,,
Royapuram, Chennai - 600 013.

...Appellant / 2nd Respondent

Vs.

1.C.Muthu
2.R.Sasikanth

...1st Respondent / Petitioner

...2nd Respondent / 1st respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree in M.C.O.P.No.2739 of 2007, dated 20.10.2010, on the file of the Motor Accidents Claims Tribunal, V Court of Small Causes, Chennai.

For Appellant : Mr.S.Arun Kumar

For Respondents : No appearance

JUDGMENT

The appellant Insurance Company is aggrieved by the impugned Judgment and Decree dated 20.10.2010, passed by the Motor Accidents Claims Tribunal, V Court of Small Causes, Chennai, in M.C.O.P.No.2739 of 2007.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.78,600/- together with interest at 7.5% per annum from the date of filing of the claim petition (15.09.2005), till the date of deposit (20.10.2010) along with cost, to the 1st respondent/claimant.

3. The present Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company on the ground that the Tribunal erred in come to the conclusion that the pillion rider was not covered under the policy in fastening the liability on the appellant/Insurance Company. He further submits that the



Tribunal erred in not appreciating the terms and conditions of the policy properly and that as per Ex.R2, the compensation can be granted only in case of total permanent disability, the personal accident cover can be invoked.

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4. I have considered the arguments advanced on behalf of the appellant/Insurance Company. Though notice was ordered on the respondents, it has not been served despite several attempts were made by the appellant/Insurance Company.

5. It is noticed that the service of notice on the second respondent/owner of the vehicle has not been served till date. Considering the amount involved is only Rs.78,600/- and the accident is of the year 2005 and the claim petition is of the year 2007, I am of the view, that the present civil miscellaneous appeal is liable to be dismissed for want of service of notice on the second respondent/owner of the vehicle without expressing anything on the merits.

6. If the amount of compensation awarded by the Tribunal has not been deposited by the appellant/Insurance Company, it is directed to deposit the same together with interest at 7.5% per annum from the date of filing of the claim petition till the date of such deposit, less the amount already deposited if any, within a period of eight weeks from the date of receipt of the copy of this Judgment. The first respondent/claimant is entitled to withdraw the same together with interest by filing suitable application before the Tribunal, if the award amount has not been already withdrawn by him as per the impugned Judgment and Decree.

7. The present Civil Miscellaneous Appeal stands dismissed with the above observation and direction. No cost. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

// True Copy //

Sub Assistant Registrar

arb

To

1.The Motor Accidents Claims Tribunal,
V Court of Small Causes,
Chennai.



2.The Section Officer,
V.R.Section,
High Court, Chennai.

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PP(CO)
RVM(07/09/2021)

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