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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.452 of 2014

and

MP No.1 of 2014

CMP No.12202 of 2018

and

Cross Objection S.R. No.16369 of 2018

The Oriental Insurance Co. Ltd.
281, Cross Cut Road,
Gandhipuram,
P.B. No.2907,
Coimbatore - 641 012.

...Appellant/3rd Respondent

versus

1. N.Dhanalakshmi
2. R.Nagaraj
3. N.Ramkumar
4. J.Solomon Raja
5. N.Ramesh

..Respondents 1 to 3/Petitioners

...Respondents 4 & 5/1st & 2nd Respondents

CMP No.12202 of 2018 in Cross Objection S.R. No.16369 of 2018

1. N.Dhanalakshmi
2. R.Nagaraj
3. N.Ramkumar

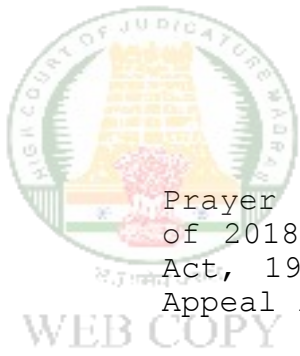
... Petitioners /
Cross Objectors

versus

1. The Oriental Insurance Co. Ltd.
281, Cross Cut Road,
Gandhipuram, P.B. No.2907,
Coimbatore - 641 012.
2. J.Solomon Raja
3. N.Ramesh

...Respondents

Prayer in CMA No.452 of 2014 : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 29.04.2013 in M.C.O.P.No.368 of 2013 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Coimbatore.



Prayer in CMP No.12202 of 2018 in Cross Objection S.R. No.16369 of 2018 : Petition filed under Section 173(1) of Motor Vehicles Act, 1988 to condone the delay of 7 days in filing the Cross Appeal in Cross Objection S.R. No.16369 of 2018

CMA No.452 of 2014 :

For Appellant : Mr.S.Arunkumar
For Respondents : Mr.C.Veeraraghavan
for R1 to R3

CMP No.12202 of 2018 in Cross Objection S.R. No.16369 of 2018
For petitioners : Mr.C.Veeraraghavan
For 1st respondent : Mr.S.Arunkumar

JUDGMENT

(This case was heard through Video Conferencing)

This appeal has been filed by the Insurance Company challenging the award dated 29.04.2013 passed by the Motor Accidents Claims Tribunal, Special Sub Court, Coimbatore in MCOP No.368 of 2013.

2. A person by name, N.Rameshkumar died on 13.07.2007 as a result of an accident caused by a vehicle owned by the fifth respondent and insured with the appellant. The respondents 1 to 3 / claimants are the legal heirs and dependants of the deceased. They preferred a claim before the Motor Accident Claims Tribunal (Special Sub Judge), Coimbatore. in M.C.O.P.No.368 of 2013 seeking compensation for the death of N.Ramesh Kumar

3. The Motor Accident Claims Tribunal, (Special Sub Judge), Coimbatore. under the impugned award directed the fifth respondent and the appellant to pay the respondents 1 to 3 / claimants a compensation of Rs.7,12,000/- together with interests and costs.

4. The appellant / Insurance Company has challenged the impugned award only on the ground that they are not liable to compensate the claim, since the insurance policy issued by them is an Act policy, which does not give coverage to the pillion rider in the insured vehicle.

5. This Court has perused and examined the impugned award.

6. Admittedly, the claimant was a pillion rider in the insured vehicle at the time of the accident.



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The issue raised by the appellant /Insurance company is covered by the following decisions :-

United India Insurance Co. Ltd., Shimla versus Tilak Singh & others reported in CDJ 2006 SC 298 , which has been followed by the Division Bench of this Court in New India Assurance Company vs. Krishnasamy & others reported in CDJ 2014 MHC 6164.

7. In both the decisions, referred to supra, it has been held that the Insurance Company owes no liability towards the injuries suffered by the claimant, who was a pillion rider in a case, where the insurance policy was a statutory policy. Admittedly, in the case on hand also, the insurance policy issued by the appellant / Insurance Company is a statutory policy and the same has also been marked as Ex.R1 before the Tribunal. However, the Tribunal has erroneously mulcted the liability on the appellant / Insurance Company by following a decision of a learned single Judge of the Madras High Court this Court reported in 2011 2 TNMAC 297, which is not the correct position of law.

8. In view of the settled position, the contention raised by the appellant / Insurance Company has to be necessarily accepted. Accordingly, the appeal is allowed. In respect of the award as against the fifth respondent in this appeal, who is the second respondent in the claim petition is confirmed. It is made clear that the Appellant/Insurance Company is not liable to pay the compensation, as awarded by the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

9. In view of the settled position of law, no useful purpose would be served, if the condone delay petition in CMP No.12202 of 2018 filed to condone the delay of seven days in filing the Cross Appeal in SR No.16369 of 2018 is entertained by this Court. Hence, the CMP No.12202 of 2018 is dismissed.

10. In view of the dismissal of the CMP No.12202 of 2018, the Cross Objection in SR No.16369 of 2018 is rejected.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar



1.The Special Subordinate Judge
Motor Accident Claims Tribunal
Coimbatore

Copy to
The Section Officer
VR Section
High Court, Madras 104.

+1 CC to Mr.S.Arunkumar, Advocate sr 31124.

C.M.A.No.452 of 2014

RSI (CO)
SP (24/08/2021)