



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Judgment
04.03.2021

Date of Pronouncing Judgment
21.04.2021

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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2897 of 2015

and

M.P.No.1 of 2015

M/s. National Insurance Co. Ltd.,
No.165, Nethaji Road,
Manjakuppam,
Cuddalore.

.. Appellant /2nd Respondent

Vs.

1.G. Lourdunathan

..1st Respondent/Petitioner

2.S. Gunasekar

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.1795 of 2013 on 06.07.2015 on the file of the Motor Accident Claims Tribunal (Special Subordinate Judge) at Cuddalore District.

For Appellant : Mr. J. Chandran

For Respondents: M/s. Ramya Rao,
for Mr. S. Chakravarthy, for R1
R2 - No Appearance

J U D G M E N T

The appellant is the Insurance Company, which is challenging the award passed by the tribunal on the ground of liability.

2. The admitted facts of the case as per pleadings and the evidence of P.W.1 is that while the claim petitioner was riding the motorcycle PY-02-L-3737 another motorcycle TN-04-B-6113 caused the accident but leaving the



prosecution of offending vehicle, he claimed compensation against his own driven motorcycle, ought to have held even U/s. 163A of Motor Vehicle Act.

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3. Before the tribunal, the injured was examined as P.W.1 and Doctor was examined as P.W.2 and Exs.P1 to P10 were marked. On the side of the Insurance Company, RW1 was marked and Ex.R1 investigation report along with policy of insurance was marked. The tribunal has awarded Rs.1,67,425/-. Hence the CMA by the Insurance company.

4. After hearing the submission of both the counsel, I find that the injured is the son of the owner of the vehicle namely 2nd respondent herein. He has taken the vehicle registered in the name of his father and met with an accident and sustained injuries. As per the pleadings and the evidence, when the claim petitioner/1st respondent was riding the vehicle owned by his father, it collided with another vehicle having registration No.TN-04-B-6133 due to which the claim petitioner was thrown out and sustained multiple grievous injuries, which led to the filing of the above MCOP against the owner of the vehicle and Insurance company.

5. Admittedly, he has not impleaded the other vehicle. The issue in question is whether a borrower of the vehicle who sustained injury in the accident, can claim compensation against the owner of the vehicle and its insurance company.

6. The above point is no longer res integra and the recent judgment of Hon'ble Supreme Court in the case of Ramkhiladi and another v. United India Insurance Co. Ltd., and another 2020 (1) TN MAC 1 (SC) : 2020 (1) CTC 443 (SC), elaborately discussed the scope of claim petition under Section 163-A of the Motor Vehicles Act. Undoubtedly, the Special provision cannot be read in isolation and and the Apex Court considered Sections 147, 166 & 163-A of the Motor Vehicles Act. Thus, the Special Provision is to be read conjointly and in consonance with the object, purpose as well as the intention of the Legislature.

7. In the case before the Hon'ble Supreme Court, the finding was that the parties are governed by the Contract of Insurance and under the Contract of Insurance, the liability of the Insurance Company would be qua Third



with interest and costs, less the amount already withdrawn, if any.

[iv] There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(I)

// True Copy //

Sub Assistant Registrar

AT

To

The Motor Accident Claims Tribunal,
Special Subordinate Judge,
Cuddalore District.

Copy to: The Section Officer,
V.R.Section,
High Court, Madras.

C.M.A.No.2897 of 2015

JPL (CO)
CB(06/12/2021)
CB(22/12/2021)