



C.M.A.No.798 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.12.2022

CORAM

THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Civil Miscellaneous Appeal No.798 of 2014

The Branch Manager,
M/s.United India Insurance Co.Ltd,
No.95, Big Street,
Tiruvannamalai.

... Appellant

-VS-

1. Vijayakumaran,
2. E.Soundararajan,

... Respondents

Prayer:- This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 12.10.2012 made in M.C.O.P.No.182 of 2006, on the file of the MACT (PSJ), Krishnagiri.

For Appellant : [Ms.I.Malar,](#)

For R1 : Mr.D.Selvaraj,

For R2 : Notice unserved



J U D G M E N T

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The 1st respondent herein Vijayakumaran filed M.C.O.P.No.182 of 2006 before the Principal Sessions Judge, Motor Accident Claims Tribunal, Krishnagiri, seeking compensation for the injury sustained by him in the Road Transport accident on 30.12.2002 and he travelled as pillion rider in the two wheeler bearing Reg.No.TN-25-V-5171.

2. The appellant/2nd respondent Insurance Company filed counter stating that on the date of the accident, the vehicle was insured with the Insurance Company. However, it is only an act policy and does not cover the pillion rider.

3. The trial Court has ordered pay and recovery and hence, pay and recovery and awarded a sum of Rs.1,04,000/- and ordered to pay and recovery from the owner of the vehicle.

4. Aggrieved against such pay and recovery order, the Insurance Company has preferred this appeal.



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5. Heard, Ms.I.Malar, Learned Counsel for the appellant and

Mr.D.Selvaraj, Learned Counsel for the 1st respondent.

6. On mutual ground, under Ex.A.6 and Ex.B.1, the policy of the insurance clearly indicates that it is only act policy and therefore, it covers only the third parties. The injured claimant is a pillion rider and therefore, he is not recovered in the policy consequently, the Insurance Company is not jointly and severally liable to pay the compensation.

7. If had it been a violation of policy condition, then principle of pay and recovery come. In the insurance, there is no coverage of policy and therefore, the award passed by the tribunal in respect of pay and recovery stands modified as to R1 alone is liable for compensation. The claimant is entitled to proceed with the owner of the vehicle namely, R2/Soundararajan. The quantum of compensation is kept intact. Accordingly, the ***Civil Miscellaneous Appeal is allowed.*** The Insurance Company/appellant is exonerated from liability.

22.12.2022



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Index : Yes/No.

Speaking order/Non-speaking order
bsm

To,

The Motor Accident Claims Tribunal, Special Sub Judge (MACT), Krishnagiri.



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RMT.TEEKAA RAMAN, J.

bsm

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