



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2022

CORAM:

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A(MD)No.594 of 2019
and
C.M.P(MD) .No.7305 of 2019

The New India Assurance Company Limited,
Rep. through its Divisional Manager,
248-B, Kamarajar Salai,
Rekha Towers,
Madurai.

... Appellant/2nd Respondent

vs.

1.Maheswari

... 1st Respondent / Petitioner

2.Rathimannan

... 2nd Respondents / 1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, to set aside the decree and judgment dated 01.03.2019 made in M.C.O.P.No.718 of 2016 on the file of Special Sub Judge, Madurai.

For Appellant : A.Ilango

For Respondents : Mr.A.Theerthar for R1

JUDGMENT

The Insurance Company is the appellant herein.

2. A short point involved in this case is that the Insurance Company is liable to pay the compensation as awarded by the Tribunal.

3. Ex.R1 is the Act one Policy. It is settled law that in case of the comprehensive /package policy of a two wheeler covers a pillion rider and comprehensive/package policy of a private car covers the occupants and when the vehicle is covered under a comprehensive/package policy, there is no need for Motor Accident Claims Tribunal to go into the question whether the Insurance



Company is liable to compensate for the death or injury of a pillion rider on a two wheeler or the occupants in a private car.

4. As per the judgment reported in **2013 ACJ 199** in the case of **National Insurance Company Limited Vs. Balakrishnan and another**, the Insurance Company is not liable to pay the compensation to the claimants, if the policy is Act only.

5. On perusal of Ex.R1/policy copy shows that it is Act one policy. It is settled law that in case of comprehensive/package policy of two wheeler it covers pillion rider and also the Comprehensive/package policy of a private car covers the occupants also in other words when the vehicle is covered under comprehensive/package policy there is no need for Motor Accident Claims Tribunal to go into the question whether the Insurance Company is liable to pay the compensate for the death or injury of the pillion rider on a two wheeler or the occupants in a private car.

6. As per the decision reported in **2013 ACJ 199** in the case of **National Insurance Company Limited Vs. Balakrishnan and another**, the Insurance Company is not liable to pay the compensation to the claimants, if the policy is Act only. In the instant case, ExA1/policy is the Act one policy. Therefore, the Insurance Company cannot be mulcted with any liability to pay the compensation and hence, the Insurance Company is exonerated from the liability. The claim petitioner is proceed against the owner of the vehicle for realization of the award amount.

7. In the result, this Civil Miscellaneous Appeal is partly allowed to the limited extend of exoneration of Appellant/Insurance company. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1. The Special Sub Judge,
Madurai.



2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

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+1 CC to M/s.A. ILANGO, Advocate (SR-21950[F] dated 28/04/2022)

+1 CC to M/s.N. SUDHAGAR NAGARAJ, Advocate (SR-21979[F] dated
28/04/2022)

JUDGMENT MADE IN
C.M.A(MD) No.594 of 2019
26.04.2022

ss (CO)
TR(14.06.2022) 3P 6C