



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2023

CORAM:

The HONOURABLE MRS.JUSTICE N.MALA

C.M.A.No.767 of 2023

in

C.M.P.No.6874 of 2023

Reliance General Insurance Company Ltd.,
Sakthi Super Market, 3rd Floor,
408, Perunthurai Road,
Perunthurai Road,
Erode.

... Appellant

Vs.

1.Radhakrishnan

2.Radhakrishnan

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 08.06.2022 made in M.C.O.P.No.89 of 2016 on the file of the MACT (Chief Judicial Magistrate Court) Perambalur.

For Appellant : Mr.P.Suresh Srinivasan



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JUDGMENT

The appeal is filed by the insurance company challenging the judgment and decree passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Perambalur, dated 08.06.2022 in M.C.O.P.No.89 of 2016.

2. The appeal is filed challenging the liability of the insurance company to pay the compensation to the claimant. According to the claim petition, while the claimant was riding his two wheeler from Thapettai to Araichi, on the left side of the road, the rider of the two wheeler /TVS XL Super drove his vehicle in a rash and negligent manner, tried to overtake the van on the right side and dashed against the petitioner's two wheeler, causing him grievous injuries. According to the claimant, the accident happened only due to the rash and negligent driving of the driver of TVS XL Super. The Claimant therefore filed the claim petition, claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the accident. The first respondent, the owner of the offending vehicle was set Ex-parte in the Tribunal.

3. The second respondent insurance company filed counter



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denying all the allegations raised in the claim petition. The insurance company disputed the maintainability of the claim petition under Section 163-A of the Motor Vehicle Act and further disputed the age, income, period of medical treatment, medical expenses, nature of injuries, disability and occupation of the claimant. The insurance company therefore prayed for dismissal of the claim petition on the above said points.

4. Before the claims Tribunal, the claimant examined himself as P.W.2 and marked Exs.P.1 to P.14. On the side of the respondent , two witnesses were examined and three documents were marked. Exs.C1 and C2 were marked as Court documents.

5. The Tribunal on assessment of entire evidence on record held that the claimant being the owner of the vehicle, the claim petition filed under Section 163 A of the Motor Vehicles Act was not maintainable. In spite of the said finding, the claims Tribunal held that as the policy covering the claimant's two wheeler was a package policy, the claimant was entitled to compensation of Rs.1,00,000/- under the said policy. The insurance company has therefore filed the above appeal.



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6. It is not disputed by the insurance company that the claimant was the owner of the vehicle and that there was a subsisting policy at the time of accident. R.W.2., Sangararaman, Legal Officer of the appellant insurance company, submitted in his evidence that the policy taken by the claimant was a package policy. The policy was marked as Ex.R3 on the side of the respondent and also Ex.P.6 on the side of the claimant. On a perusal of the policy, it is seen that claimant had paid an additional premium of Rs.50/- for personal accident coverage for owner cum Driver limited to Rs.1,00,000/-.

7. This Hon'ble Court in Shanmugam vs. Manivasagam, in C.M.A.No.2982 of 2019, judgment dated 11.02.2021, after referring to several judgments of the Hon'ble Supreme Court held that the claimant was entitled to a sum of Rs.1,00,000/- in terms of policy, as he had paid an additional premium for personal accident coverage for the owner cum Driver following the said judgment and on the basis of the terms of the policy discussed above, I am of the view that the claimant is entitled to Rs.1,00,000/- under P.A cover. I am therefore of the view that there is no irregularity or illegality in the order passed by the Tribunal and hence the



same is confirmed. I find no merits in the appeal and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.03.2023

jai

Index : Yes/No

Neutral Citation : Yes/No

To:

MACT Chief Judicial Magistrate Court,
Perambalur.



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N.MALA, J.
jai

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