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C.M.A.No.3107 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2024

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3107 of 2021

E.Krishnaveni

... Appellant

Vs.

1.A.K.Boopala Senthilraj

2.The Manager,
Shriram General Insurance Company Limited,
No.66, 2nd Floor, City Centre Complex,
Thirumalai Pillai Road,
T.Nagar, Chennai - 17.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree dated 10.02.2020 made in M.C.O.P. No.143 of 2013 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Court, Kancheepuram.

For Appellant : Mr.M.Sivakumar
for Mr.C.Prabakaran

For Respondents : Ms.R.Sree Vidhya
for R2

R1 - No Appearance

JUDGMENT



This appeal has been filed by the claimant, aggrieved by the dismissal of his claim petition in M.C.O.P. No.143 of 2013 under the award dated 10.02.2020 passed by the Motor Accident Claims Tribunal, Principal Subordinate Court, Kancheepuram.

2. As seen from the evidence available on record and also from the impugned award, it is an admitted fact that the F.I.R. was registered only against an unknown vehicle. The appellant was a pillion rider and the vehicle was insured with the second respondent Insurance Company. The Tribunal has rightly dismissed the claim petition filed by the appellant under Section 166 A of the Motor Vehicles Act on the ground that there is no negligence on the part of the respondents as even according to the F.I.R., it is only due to the fault of an unknown vehicle, the accident had happened.

3. Learned counsel for the second respondent Insurance Company would fairly submit that the compensation can be awarded as per the provisions of Section 140 of the Motor Vehicles Act as there is no necessity to prove negligence in respect of claim lodged under Section 140 of the Motor Vehicles Act. Section 140 of the Motor Vehicles Act reads as



follows:

"140. Liability to pay compensation in certain cases on the principle of no fault.—(1) Where death or permanent disablement of any person has resulted from an accident arising out of the use of a motor vehicle or motor vehicles, the owner of the vehicle shall, or, as the case may be, the owners of the vehicles shall, jointly and severally, be liable to pay compensation in respect of such death or disablement in accordance with the provisions of this section.

(2) The amount of compensation which shall be payable under sub-section (1) in respect of the death of any person shall be a fixed sum of [fifty thousand rupees] and the amount of compensation payable under that sub-section in respect of the permanent disablement of any person shall be a fixed sum of [twenty-five thousand rupees].

(3) In any claim for compensation under sub-section (1), the claimant shall not be required to plead and establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act, neglect or default of the owner or owners of the vehicle or vehicles concerned or of any other person.

(4) A claim for compensation under sub-section (1) shall not be defeated by reason of any wrongful act, neglect or default of the person in respect of whose death or permanent disablement the claim has been made nor shall the quantum of compensation recoverable in respect of such death or permanent disablement be reduced on the basis of the share of such person in the responsibility for such death or permanent disablement.

[(5) Notwithstanding anything contained in sub-section



(2) regarding death or bodily injury to any person, for which the owner of the vehicle is liable to give compensation for relief, he is also liable to pay compensation under any other law for the time being in force:

Provided that the amount of such compensation to be given under any other law shall be reduced from the amount of compensation payable under this section or under section 163A.]"

4. As seen from the aforesaid section, in case of permanent disablement, the injured accident victim is entitled to get a compensation of Rs.25,000/- and there is no necessity for the injured accident victim to prove negligence. The subject insurance policy also gives insurance coverage for a pillion rider. Since the second respondent Insurance Company has stated no objection for directing them to pay compensation at Rs.25,000/- to the appellant as per the provisions of Section 140 of the Motor Vehicles Act, this Court issues a direction to the second respondent Insurance Company to pay a compensation of Rs.25,000/- together with interest at 7.5% p.a. from the date of the claim till the date of realization in full.

5. Learned counsel for the appellant would also fairly agree with the



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submissions made by the learned counsel for the second respondent Insurance Company and would submit that the appellant is agreeable to receive Rs.25,000/- together with interest at 7.5% p.a. as compensation towards full and final settlement of M.C.O.P. No.143 of 2013. Eventhough this Court is confirming the impugned award passed by the Tribunal, this Court after recording the statement made by the learned counsel for the second respondent Insurance Company issues the following directions:

a) The second respondent Insurance Company is directed to pay compensation of Rs.25,000/- together with interest at 7.5% p.a. from the date of claim petition till the date of payment as per the provisions of Section 140 of the Motor Vehicles Act and the said amount shall be deposited before the Tribunal concerned within a period of 4 months from the date of receipt of a copy of this judgment.

b) However, it is made clear that if there was any delay / fault on the part of the appellant in prosecuting the claim petition or prosecuting this appeal, the second respondent Insurance Company need not pay interest for the delay period.



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ABDUL QUDDHOSE. J.,

ab

6. Accordingly, this appeal is disposed of. However, directions as issued supra has to be adhered to by the second respondent Insurance Company. No Costs.

04.07.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To

1. The Motor Accident Claims Tribunal, Principal Subordinate Court, Kancheepuram.
2. The Section officer, Record Section, High Court of Madras.

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