IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM :

THE HONOURABLE **MR.JUSTICE RMT.TEEKAA RAMAN**

C.M.A.No.2067 of 2021
and C.M.P. No.11164 of 2021

Judgment reserved on	Judgment pronounced on
11.01.2024	**09.02.2024**

M/s.Reliance General Insurance Co. Ltd.
Branch Office, Sakthi Super Market Building
3d Floor, No.408, Perundurai Road,
Erode – 638 011. .. Appellant

Vs.

Rajendran .. Respondent

Prayer : This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 02-08-2019 made in MCOP.No.689 of 2011 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Krishnagiri.

For Appellant : Mr.S.Arunkumar

For Respondents : Mr.I.Siddiq for
for M/s.Dass and Viswa Associates

JUDGMENT

The Insurance company is the appellant herein. Challenging the award passed by the Tribunal dated 02.08.2019 in M.C.O.P.No.689 of 2011 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Krishnagiri on the ground of quantum, the appellant has filed the present appeal.

2. The factum of accident, manner of accident and vehicle being insured with the appellant/Insurance company are not in dispute. Accordingly, the finding rendered by the Trial Court with regard to negligence are hereby confirmed.

3. On the point of quantum of compensation, heard the learned counsel for the appellant/insurance company as well as learned counsel for the respondent.

4. The learned counsel appearing for the appellant/insurance company would contend that the respondent sustained injuries in the road transport accident wherein third party vehicle is not involved and he is the owner of the vehicle. Hence, he cannot maintain the claim petition against his own insurance company and relied upon the judgment of the Hon'ble Supreme Court in ***Ramkhiladi and another v. United India Insurance Co. Ltd.*** reported in ***2020 ACJ 627.***

5. On the other hand, the learned counsel appearing for the respondent / claimant made submissions in support of the award passed by the Tribunal.

6. After hearing the oral argument of both sides and perusing the evidence of PW1 & RW1 and documentary evidences, Exs.P1 to P8, R1 to R5, I find that as per Ex.P1 – FIR, the claim petitioner himself is shown as accused. As per his own version in Ex.P1 – FIR, he had stated that in order to avoid hitting on sudden crossing of a dog, he applied brake, consequently, he lost his balance, fell down and the vehicle dashed against the nearby tree.

Thus, he filed claim petition claiming compensation against the appellant/insurance company.

7. This Court has consistently held that when a vehicle has been met with an accident by the owner of the vehicle by his own fault, without intervention of the third parties, the claim cannot be made against the insurer, if at all they can get a consolidated sum of Rs.50,000/- towards personal accident coverage. As per Ex.R1 – policy condition and Ex.R2 – contents contained therein and oral evidence of RW1 – Kurunthalingam, I find that the manner of accident as spoken by PW1 as reflected in Ex.P1 – FIR goes to show that without involvement of any third party vehicle, the accident has taken place due to the own fault of the first respondent/claim petitioner who is owner cum rider. As per Exs.R1 & R2, the first respondent/claim petitioner is entitled to personal accident coverage of a consolidated sum of Rs.50,000/- and none more. Accordingly, the first respondent is entitled to a consolidated sum of **Rs.50,000/- (Rupees Fifty Thousand only)** as compensation.

8. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, reducing the award amount from **Rs.4,55,096/- to Rs.50,000/- (consolidated sum).**

(ii) the appellant/Reliance General Insurance Company Limited is directed to deposit the modified award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the respondent/claim petitioner is permitted to withdraw the modified award amount, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the Appellant/Reliance General Insurance Company Limited is permitted to withdraw the excess amount lying in the deposit before the Tribunal, if the entire award amount has already been deposited by them.

(v) No costs. Consequently, connected Miscellaneous Petition is closed.

09.02.2024

rgr
Index : Yes/No
Neutral Citation:Yes/No
Speaking Order: Yes/no

RMT.TEEKAA RAMAN.J,

rgr

To

1. The Subordinate Judge,
   Motor Accident Claims Tribunal,
   Chief Judicial Magistrate Court,
   Krishnagiri.

2. The Section Officer,
   V.R.Section, High Court,
   Madras.

Judgment made in
C.M.A.No.2067 of 2021

09.02.2024