



C.M.A(MD)No.1461 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1461 of 2013

and

C.M.P.(MD)No.12195 of 2016

The Branch Manager,
National Insurance Company Limited,
Kanjipuram Town.

... Appellant

Vs.

1.Chellamuthu
2.Karuppusamy

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the fair and decreetal order, dated 28.08.2014, made in M.C.O.P.No.44 of 2007, on the file of the Motor Accident Claims (Sub Court), Palani.

For Appellant	: Mr.S.Srinivasaraghavan
For R1	: Mr.R.Jegadeeswaran
For R2	: No appearance

JUDGMENT

The Insurance Company has preferred this Civil Miscellaneous Appeal.

2.It is a case of injury. The contention of the Insurance Company is that the policy is only an Act policy, therefore, the policy would not cover the pillion rider



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in two-wheeler. Likewise, the other persons travelling in the car apart from the Driver are not covered under the Act policy. Infact the said issue was taken up by the Hon'ble Division Bench of this Court in C.M.A.Nos.1825 of 2018 and 3658 of 2014 and Cross Objection No.77 of 2017 wherein it is held if the Act is not providing for extending the 'Act Policy' to pillion rider or passengers who are travelling in the car, the Insurance Company is not liable. Further it is observed unless the Act is amended, the compensation cannot be provided. Therefore, following the aforesaid judgement this Court is of the considered opinion that the claimant is not entitled to compensation.

3. At the time of admission this Court granted conditional stay and directed the appellant Insurance Company to deposit Rs.40,669/- with proportionate interest at the rate of 7.5% per annum to the credit of M.C.O.P., on the file of claims Tribunal. If the claimant had withdrawn the same, the same shall not be recovered. If the claimant had not withdrawn then the Insurance Company shall withdraw the said amount.

4. However, this Court is of the considered opinion that the Act is absurd in not granting compensation to wife who would be a pillion rider. Likewise, it is



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absurd that the wife and children of the owner who are travelling in the car are not entitled to compensation. In short, the family of the owner are not covered by the policy which is absolutely absurd. Therefore, it is recommended to amend the Act to this effect. The Court with a fond hope believes that steps would be taken for amendment of the Act in order to provide compensation for the pillion riders and the passengers who are travelling in the two-wheeler / four-wheeler.

5. With the above observations, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Tmg

To

- 1.The Motor Accident Claims (Sub Court),
Palani.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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