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CMA No.3669 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 05.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.3669 of 2021

Nantha Kumar

... Petitioner

Vs.

1. Kesavan

2. United India Insurance Company Ltd.,
rep. by its Branch Manager,
having office at No.50, Jeevanandam Street,
Karaikal .

... Respondents

Prayer: The Civil Miscellaneous appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 31.10.2019 made in MCOP No.185 of 2015 on the file of the District Judge, Motor Accident Claims Tribunal, Karaikal.

For Petitioner : Mr.K.Varadha Kamaraj

For Respondents : Mr.D.Bhaskaran for second respondent
for first respondent- No appearance



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stranger/ borrower of the vehicle from the owner, which was driven by him at the time of accident and hence, as a borrower, the claimant can be construed only as a third party. It is further stated by the insurance company that the extra premium paid by the owner of the vehicle for personal coverage will not be applicable to the claimant, as he is a third party.

4. The Tribunal on appreciation of evidence available on record, dismissed the claim petition and aggrieved by the same, the claimant has filed this appeal.

5. A perusal of Ex.P3 would indicate that the insured paid extra premium, which covers owner cum driver of the vehicle. In the case on hand, the claimant is not the registered owner of the vehicle and he is only a borrower. The very personal accident coverage, based on extra premium is applicable only to the owner cum driver and not for the borrower of the vehicle. Therefore, I do not find anything to interfere with the view taken by the Tribunal.



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6. Even according to the case of the claimant, as per his averments in the claim petition, the accident had occurred due to rash and negligent driving of unknown vehicle. Therefore, the owner of the two wheeler is not liable to pay any amount, unless there is any fault on the driver of his vehicle (i.e. claimant). Even assuming that there is negligence on the part of the claimant (borrower of vehicle from owner/insured), he can not be a tortfeasor as well as claimant/beneficiary. Hence, the Tribunal rightly dismissed the claim petition

7. Accordingly, this civil miscellaneous appeal is dismissed.
There shall be no order as to costs.

05.02.2025

Index:Yes/No
Internet:Yes/No
mst

To

1. The District Judge,
Motor Accident Claims Tribunal,
Karaikkal.

2. The Branch Manager,

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United India Insurance Company Ltd.,
No.50, Jeevanandam Street, Karaikkal.

S.SOUNTHAR, J.

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