
(2012) 03 MP CK 0035

Madhya Pradesh High Court (Indore Bench)

Case No: Miscellaneous Appeal No. 3221 of 2007

Prakash Bai

APPELLANT

Vs

Bherulal and Another

RESPONDENT

Date of Decision: March 27, 2012

Acts Referred:

- Motor Vehicles Act, 1988 - Section 146, 147, 163A

Citation: (2012) 3 MPLJ 655

Hon'ble Judges: S.K. Seth, J

Bench: Single Bench

Advocate: J. Vaishnav, for the Appellant; S.V. Dandwate for Insurance Company, for the Respondent

Final Decision: Dismissed

Judgement

S.K. Seth, J.

Claimant is in appeal against the award dated 29-9-2007. By the impugned award her claim petition has been dismissed. She filed the claim petition claiming total compensation of Rs. 8,00,000/- on allegation that on 21-2-2006 she and her husband were coming to, Indore on their Motor-Cycle when an unknown Jeep dashed against their Motor-Cycle causing severe injuries to claimant and her husband. Accident was reported in the Police Station Depalpur but the Police could not trace either the owner or the driver of the offending vehicle. At the time of accident appellant was travelling as a pillion rider on her husband's Motor-Cycle which was insured with the respondent No. 2. Since the offending Vehicle was unknown, therefore, claimant preferred claim petitions u/s 163-A against her husband and the insurance company of his own Motor-Cycle the respondent No. 2.

2. Insurance Company denied its liability to pay any amount of compensation in view of statutory provisions. It claimed that in terms of statutory policy, it was required to indemnify the owner only against the third party claims. Since appellant

was travelling as pillion rider on the Motor-Cycle therefore her risk was not covered by the Act Policy.

3. Learned Claims Tribunal found that appellant met with an accident caused by unknown vehicle but dismissed the claim petition holding that appellant was not a third party and as such was not entitled to receive any compensation from the respondent No. 2. Insurance Company (of Motor-Cycle) because appellant was travelling on the Motor-Cycle as pillion rider and the insurance policy did not cover risk of death or bodily injury to such pillion rider. In support of this conclusion Tribunal relied upon [United India Insurance Co. Ltd., Shimla Vs. Tilak Singh and Others](#) .

4. The questions that arise for our consideration are whether Claims Tribunal committed illegality in dismissing the claim of the appellant and whether the pillion-rider on a two wheeler would be a third party within the meaning of section 147 of the Motor Vehicles Act, 1988.

5. Provisions relating to grant of compensation occurring in Chapters XI and XII of the Act have been enacted by Parliament in order to achieve the purpose and object stated therein. Section 146 of the Act lays down the requirements for insurance against third-party risk. Where a third-party risk is involved, an insurance policy is required to be mandatorily taken out. The requirements of policies and the limits of liability, however, have been stated in section 147 of the Act.

6. Perusal of provisions shows for two types of insurance -- one statutory in nature and the other contractual in nature. Under the "Act Policy" the insurance company is bound to compensate the owner of the motor vehicle in case any third party dies or suffers injury as a result of an accident. By taking an "Act policy", the owner of a vehicle fulfils his statutory obligation as contained in section 147 of the Act.

7. In the case in hand, Insurance Company led evidence to prove the Certificate of Insurance (Ex.D. 1) From the Certificate Ex.D. 1 it is quite clear that the contract of insurance was entered into for the purpose of covering the third-party risk and not the risk a pillion-rider. Undoubtedly, appellant was travelling as a pillion rider; *stricto sensu* may not be as a gratuitous passenger. In the sense of the term which is used in common parlance, she might not even be a passenger. In view of the terms of the contract of insurance, however, she would not be covered thereby. The compulsory coverage is only against the death of or bodily injury to "any third person". We are of the opinion that as the provisions thereof do not enjoin any statutory liability on the owner of a vehicle to get his vehicle insured for pillion rider, the insurers would not be liable therefor. Section 147 speaks of liability which may be incurred by the owner of a vehicle in respect of death of or bodily injury to any person or damage to any property of a third party caused by or arising out of the use of the vehicle in a public place. The meaning of the words "any person" must also be attributed having regard to the context in which they have been used i.e. "a third party". In view of the

legal provision, I am afraid that the appellant could not maintain the claim petition against her husband and the Insurance Company of his Motor Cycle. The Tribunal rightly dismissed the claim petition. There is no merit and substance in this appeal therefore, the appeal fails and is hereby dismissed. No order as to costs.