

(2008) 08 CHH CK 0017
In the Chhattisgarh High Court

Bajaj Allianz General Insurance Co. Ltd.	APPELLANT
Vs	
Hiraudas Manikpuri and Another	RESPONDENT

Date of Decision : 29-08-2008

Acts Referred:

Citation : (2009) ACJ 2630

Hon'ble Judges : Dilip Raosaheb Deshmukh, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Dilip Raosaheb Deshmukh, J.—The appellant insurer is aggrieved by the award dated 26.6.2006 passed by Eleventh Additional Motor Accidents Claims Tribunal (F.T.C.), Raipur in Claim Case No. 93 of 2006 whereby in an injury case compensation of Rs. 14,000 has been awarded to the claimants against the insurer.

2. Brief facts are that on 19.2.2005 at 6.30 p.m. respondent No. 1 was travelling as a pillion rider on motor cycle No. CG 04-CJ 8793 (henceforth "the motor cycle") driven by one Santuram Jangde, owned by respondent No. 2, Santosh Kumar and insured by the appellant. Santuram Jangde died in the accident. Hiraudas Manikpuri, respondent No. 1, sustained injuries. No premium was paid by respondent No. 2 for covering the risk of pillion rider. The Tribunal awarded compensation of Rs. 14,000 against the appellant insurer.

3. The sole ground urged by Mr. Sachin Singh Rajput, learned Counsel for appellant insurer is that the claimant (respondent No. 1) was a pillion rider on the motor cycle and no extra premium was paid by the owner of the vehicle to cover the risk of pillion rider. He also placed reliance on a decision rendered by the Supreme Court of India in Oriental Insurance Co. Ltd. Vs. Sudhakaran K.V. and Others, ,in support of the argument. Learned Counsel also submitted that the entire compensation awarded by Tribunal has been deposited by the insurer and, therefore, prayed that right to recover the compensation deposited in the

Tribunal by the insurer be given to the appellant.

4. Respondent No. 2, despite service of notice, did not appear before this court.

5. Having heard submission of learned Counsel for the appellant insurer, I have perused the record. In the case of Oriental Insurance Co. Ltd. Vs. Sudhakaran K.V. and Others, , the Supreme Court of India has held as under:

(19) The law which emerges from the said decisions, is: (i) the liability of the insurance company in a case of this nature is not extended to a pillion rider of the motor vehicle unless the requisite amount of premium is paid for covering his/her risk; (ii) the legal obligation arising u/s 147 of the Act cannot be extended to an injury or death of the owner of vehicle or the pillion rider; and (iii) the pillion rider on a two-wheeler was not to be treated as a third party when the accident has taken place owing to the rash and negligent riding of the scooter and not on the part of the driver of another vehicle.

Since in the present case the certificate-cum-policy schedule clearly shows that no extra premium was paid to cover the risk of pillion rider, liability to pay compensation ought not to have been fastened on the insurer.

6. In the result the appeal is allowed. The appellant insurer is exonerated from the liability to pay compensation. Since the entire compensation awarded by the Tribunal has been deposited by the appellant insurer in the Tribunal, it may initiate proceeding to recover the same from Santosh Kumar, respondent No. 2.