

DHANRAJ
v.
NEW INDIA ASSURANCE CO. LTD. AND ANR.

SEPTEMBER 24, 2004

[S.N. VARIAVA AND A.K. MATHUR, JJ.]

Motor Vehicles Act, 1988—Section 147—Motor Accident—Injury to owner of vehicle—Comprehensive policy—Claim of owner allowed by Courts below—On appeal, held: Comprehensive policy would not cover the risk of the injury of the owner unless there is personal accident insurance.

In a motor accident appellant-owner of the vehicle alongwith other passengers got injured. Owner had a comprehensive policy. Regarding claim of the owner, Motor Accident Claims Tribunal held the driver responsible for the accident and directed the driver and the Insurance Company to pay compensation to him. Appeal of Insurance Company was allowed by High Court holding that Insurance Company was not liable to pay compensation to the owner.

In appeal to this Court appellant contended that the premium paid under “own damage” was for covering personal injury. Hence, he was entitled for compensation.

Dismissing the appeals, the Court

HELD: In view of Section 147 of Motor Vehicles Act, 1988, an insurance policy covers the liability incurred by the insured in respect of death of or bodily injury to any person (including an owner of the goods or his authorized representative) carried in the vehicle or damage to any property of a third party caused by or arising out of the use of the vehicle. Section 147 does not require an Insurance Company to assume risk for death or bodily injury to the owner of the vehicle.

[714-H; 715-A]

2. In the present case, it has not been shown that the policy covered any risk for injury to the owner himself. It cannot be said that the premium paid under the heading “Own damage” is for covering liability towards personal injury. Under the heading “Own damage”, the words “premium on vehicle and non-electrical accessories” appear. It is thus

A clear that this premium is towards damage to the vehicle and not for injury to the person of the owner. An owner of a vehicle can only claim provided a personal accident insurance has been taken out. In this case, there is no such insurance. [715-C, D]

B *Oriental Insurance Co. Ltd. v. Sunita Rathi and Ors.*, (1998) ACJ 121, referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 6270-6271 of 2004.

C From the Judgment and Order dated 21.7.2003 of the Madhya Pradesh High Court in Misc. A. No. 1712 of 2002.

Sushil Kumar Jain, Ms. Pratibha Jain, Ms. Ruchi Kohli, Ram Niwas A.P. Dhamija and H.D. Thanvi for the Appellant.

D K.L. Nandwani, Sameer Nandwani, S.K. Mishra and Debasis Misra for the Respondents.

The Judgment of the Court was delivered by

E S. N. VARIAVA, J. : Special leave granted.

Heard parties.

F These Appeals arise out of a Judgment of the High Court of Madhya Pradesh dated 21st July 2003.

Briefly stated the facts are as follows.

G On 26th August 2000, the Appellant along with certain other persons was traveling in his own Jeep. Around 6.30 A.M. the Jeep met with an accident. In the accident, the Appellant as well as the other passengers received injuries. A number of Claim Petitions came to be filed. The Appellant also filed a Claim Petition.

H The Motor Accident Claims Tribunal (MACT) held the Driver of the Jeep responsible for the accident. In all the Claim Petitions filed by the other

passengers MACT directed that the Appellant (as the owner) as well as the Driver and Insurance Company were liable to pay compensation. In these Appeals, we are not concerned with those Petitions and the Orders thereon.

In the Claim Petition filed by the Petitioner, the Motor Accident Claims Tribunal directed the driver and the Insurance Company to pay compensation to the Petitioner. The Insurance Company filed an Appeal. That Appeal has been allowed by the impugned Judgment. It has been held that as the Petitioner was the owner of the vehicle the Insurance Company is not liable to pay him any compensation.

We have seen the Policy. It is a comprehensive policy. The question that arises is whether a comprehensive Policy would cover the risk of injury to the owner of the vehicle also. Section 147 of the Motor Vehicles Act, 1988 reads as follows:-

“147. *Requirements of policies and limits of liability.*—(1) In order to comply with the requirements of this Chapter, a policy of insurance must be a policy which -

- (a) is issued by a person who is an authorized insurer; or
- (b) insurer the person or classes of persons specified in the policy to the extent specified in sub-section (2) -

- (i) against any liability which may be incurred by him in respect of the death of or bodily injury to any person, including owner of the goods or his authorized representative carried in the vehicle or damage to any property of a third party caused by or arising out of the use of the vehicle in a public place;

- (ii) against the death of or bodily injury to any passenger of a public service vehicle caused by or arising out of the use of the vehicle in a public place:

Provided that a policy shall not be required -

- (i) to cover liability in respect of the death, arising out of and in the course of his employment, of the employee of a person insured by the policy or in respect of bodily injury sustained by such an

A employee arising out of and in the course of his employment other than a liability arising under the Workmen's Compensation Act, 1923 (8 of 1923) in respect of the death of or bodily injury to, any such employee -

- B (a) engaged in driving the vehicle, or
- (b) if it is a public service vehicle engaged as conductor of the vehicle or in examining tickets on the vehicle, or
- (c) if it is a goods carriage, being carried in the vehicle, or
- C (ii) to cover any contractual liability.

D *Explanation.*—For the removal of doubts, it is hereby declared that the death of or bodily injury to any person or damage to any property of a third party shall be deemed to have been caused by or to have arisen out of, the use of a vehicle in a public place notwithstanding that the person who is dead or injured or the property which is damaged was not in a public place at the time of the accident, if the act or omission which led to the accident occurred in a public place.

E (2) Subject to the proviso to sub-section (1), a policy of insurance referred to in sub-section (1), shall cover any liability incurred in respect of any accident, up to the following limits, namely:—

- (a) save as provided in clause (b), the amount of liability incurred;
- F (b) in respect of damage to any property of a third party, a limit of rupees six thousand:

G Provided that any policy of insurance issued with any limited liability and in force, immediately before the commencement of this Act, shall continue to be effective for a period of four months after such commencement or till the date of expiry of such policy whichever is earlier."

H Thus, an insurance policy covers the liability incurred by the insured in respect of death of or bodily injury to any person (including an owner of

the goods or his authorized representative) carried in the vehicle or damage to any property of a third party caused by or arising out of the use of the vehicle. Section 147 does not require an Insurance Company to assume risk for death or bodily injury to the owner of the vehicle.

In the case of *Oriental Insurance Co. Ltd. v. Sunita Rathi & Ors.*, (1998) ACJ 121, it has been held that the liability of an Insurance Company is only for the purpose of indemnifying the insured against liabilities incurred towards third person or in respect of damages to property. Thus, where the insured i.e. an owner of the vehicle has no liability to a third party the Insurance Company has no liability also.

In this case, it has not been shown that the policy covered any risk for injury to the owner himself. We are unable to accept the contention that the premium of Rs. 4,989 paid under the heading "Own damage" is for covering liability towards personal injury. Under the heading "Own damage", the words "premium on vehicle and non-electrical accessories" appear. It is thus clear that this premium is towards damage to the vehicle and not for injury to the person of the owner. An owner of a vehicle can only claim provided a personal accident insurance has been taken out. In this case, there is no such insurance.

We, therefore, see no infirmity in the Judgment of the High Court. We see no reason to interfere. The Appeals stand dismissed. There will be no order as to costs.

K.K.T.

Appeals dismissed.