

**Pradeep Rao and ors. Vs. Manoj Kumar Agarwal and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/510024](http://sooperkanoon.com/510024)

**Court :** Madhya Pradesh

**Decided On :** Sep-28-1995

**Reported in :** I(1996)ACC176; 1996ACJ898

**Judge :** S.C. Pandey, J.

**Appeal No. :** M.A. No. 325 of 1990

**Appellant :** Pradeep Rao and ors.

**Respondent :** Manoj Kumar Agarwal and ors.

**Advocate for Def. :** M. Billore, Adv.

**Advocate for Pet/Ap. :** T.C. Naik, Adv.

**Disposition :** Appeal dismissed

**Judgement :**

**S.C. Pandey, J.**

1. This is an appeal under Section 173 of the Motor Vehicles Act, 1988, against the interim award dated 18.4.1990 amounting to Rs. 7,500/- passed by the 6th Additional Motor Accidents Claims Tribunal, Bhopal, in M.C.C. No. 24 of 1989.

2. The facts of the case are that the respondent No. 1 was a pillion rider of scooter No. MKC 9231 on 24.5.1989, driven by the appellant No. 1, Pradeep Rao s/o S.

Prasanna Rao. The scooter met with an accident with jeep and the right leg of respondent No. 1 was injured. The respondent No. 1, therefore, filed a claim before the Claims Tribunal claiming compensation for the injuries amounting to Rs. 10,23,000/-.

3. During the pendency of the claim the respondent No. 1 filed an application for grant of interim award on the basis of no fault liability as provided by Section 140 of the Motor Vehicles Act, 1988.

4. The respondent No. 2 in that case took a plea that the insurance company is not liable for payment of interim award because the pillion rider was not insured by the policy issued in favour of the owner of the scooter. It was also contended that under the policy the pillion rider has to be insured separately and for this purpose additional premium has to be paid. Thus the insurance company sought to avoid its liability for payment of interim award.

5. The Motor Accidents Claims Tribunal decided the point in favour of the insurance company holding that the insurance company is not liable for the payment of compensation because no additional premium was paid and column whereby the pillion rider was insured was struck off from the policy indicating that the owner of the scooter did not want the pillion rider to be insured.

6. In this appeal filed by the owner of the scooter, it has been contended that the insurance company should also be made jointly and severally liable for payment of interim award amounting to Rs. 7,500/- granted by the Claims Tribunal.

7. Section 140 (1) of the Motor Vehicles Act, 1988, reads as under:

140. Liability to pay compensation in certain cases on the principle of no fault.-(1) Where death or permanent disablement of any person has resulted from an accident arising out of the use of a motor vehicle or motor vehicles, the owner of the vehicle shall, or, as the case may be, the owners of the vehicles shall, jointly and severally, be liable to pay compensation in respect of such death or disablement in accordance with the provisions of this section.

8. It may be readily seen from this section that the insurance company is not made directly liable for the payment of compensation for no fault liability specifically. It is not disputed by the learned Counsel for the appellants that the liability of the insurance company is subject to insurance policy. It is a matter of dependence on the contract and liability assigned in the policy. In other words, the legislature has not made an insurance company liable statutorily for no fault liability irrespective of its contract with the owner. The legislature could have provided in all those cases where a motor vehicle is insured, that the insurance company would be liable to pay compensation for no fault liability irrespective of the fact where the policyholder has contracted to pay premium and insure a person or not.

9. In absence of such provision in the statute it is not possible to hold that the insurance company would still be liable to pay compensation where a person is required to pay the amount of no fault liability without there being any policy for the protection of that person.

10. In view of the aforesaid, the appeal fails and is hereby dismissed. No costs.

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