

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2016

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

C.M.A.Nos.3293 and 3294 of 2009
and
C.M.P.Nos.3497 and 3498 of 2016
and
M.P.Nos.1 & 1 of 2009

C.M.A.No.3293 of 2009

M/s.Iffco-Tokio General Ins.Co.Ltd.,
No.28, (Old No.195) 1st and 2nd floor,
T.Nagar, Chennai - 600 017 ...Appellant/Respondent-3

vs.

1. Chinnathayee
W/o Late Munian ... 1st Respondent/Pettitioner
2. Sivakumar
S/o Subramani
3. Govindasamy
S/o Chinnasamy Iyer ...2nd&3rd Respondents/Respondents
1 and 2

(R2 and R3 exparte before the
Tribunal and hence Notice
may be dispensed with)

C.M.A.No.3294 of 2009

M/s.Iffco-Tokio General Ins.Co.Ltd.,
No.28, (Old No.195) 1st and 2nd floor,
T.Nagar, Chennai - 600 017 ...Appellant/Respondent-3

vs.

1. Chinnathayee
W/o Late Munian
- 2.Palanisamy @ Karumalai
S/o Late Munian
3. Govindaraj,

S/o Late Munian

4. Balayee
D/oLate Munian ... Respondents 1 to 4/Petitioners.

5. Sivakumar
S/o Subramani

6. Govindasamy
S/o Chinnasamy Iyer ...Respondents 5 &6/Respondents 1 and 2

(Respondents 5 &6 exparte
before the Tribunal hence
notice may be dispensed
with)

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles act, 1988 against the judgment and decree in M.C.O.P.Nos.673 and 675 of 2007 dated 25.06.2009 on the file of Motor Accidents Claims Tribunal, Subordinate Court, Sankagiri.

For Appellant in both CMA : Mr.N.Vijayaraghavan

For Respondents in both CMA : Mr.C.Kulanthivel
R1 in CMA
3293/09 R1 to R4 in
CMA 3294/09

COMMON JUDGMENT

By consent of parties, the main appeals are taken up for final disposal.

2. The issue involved in these cases is lying in a narrow compass which can be considered and decided without going into the merits of the matter in detail.

3. Heard both sides.

4. The Insurance Company is the appellant in both the Appeals. These appeals are filed challenging the Award of the Motor Accident Claims Tribunal only on the ground that the driver of the vehicle which met with an accident was not possessing the valid license and consequently, the Insurance Company is not liable to pay. Insofar as the quantum is concerned, the learned counsel appearing for the appellant fairly concedes that there is no serious dispute to that aspect. Therefore, the only question to be considered and decided in these cases is as to whether the Insurance Company is liable to pay the compensation, when it is contended that the driver was not possessing the valid license at the time of accident. The

owner of the vehicle and driver of the same were arrayed as party respondents before the Tribunal as respondents 1 and 2. However, they remained exparte before the Tribunal. It is stated that those persons have not chosen to set aside the exparte order or challenge the award passed by the Tribunal before this Court by way of any separate Appeal. Therefore, insofar as the owner and driver are concerned, the finding of the Tribunal has become final and conclusive. Since they remained exparte before the lower Court, notice was also not issued to them in these appeals, as the appellant sought to dispense with such notice.

5. While considering the present issue arising in these appeals, I do not find that the appellant is in any way prejudiced by the Award of the lower Court, especially, when its interest is safeguarded therein by specifically directing the appellant to pay the award amount and recover the same from the owner and driver namely, respondents 1 and 2 before the Tribunal. When such being the Award passed by the Tribunal, I do not find any justification in filing the appeals before this Court when it is also settled law that in case of such disputed liability, Insurance Company can pay and recover the same from the parties concerned. Therefore, I find the above issue against the Insurance Company as their interest is already well protected in the award itself. Accordingly, both the civil miscellaneous appeals fail and the same are dismissed. In view of the dismissal of these appeals, the respondent/claimants are entitled to withdraw the amount deposited by the Insurance Company with accrued interest by making appropriate application before the Tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

vsi

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Subordinate Judge,
Motor Accidents Claims Tribunal,
Sankagiri.

+ 2 ccs to Mr.N.Vijayaraghavan, Advocate SR 21504 21505

+ 1 cc to Mr.C.Kulanthaivel, Advocate SR 21019

ev(co)
prk12/4

C.M.P.Nos.3497 and 3498 of 2016and
M.P.Nos.1 & 1 of 2009