

HON'BLE SRI JUSTICE S. RAVI KUMAR

MA CMA Nos. 1142 OF 2016 & 1310 OF 2015

COMMON JUDGMENT:

These two appeals arise out of the same accident. One appeal is preferred by the owner of the vehicle and the other appeal is preferred by the claimants.

2. The Court below granted compensation only against the owner and dismissed against the Insurance Company on the ground of violation of policy conditions particularly on the ground driver was not holding a licence and it amounts violation of terms and conditions of policy, therefore, no liability can be fastened on the Insurance Company.

3. Now the Advocate for owner submitted that the driver has got valid driving licence but due to oversight it could not be filed and therefore, an opportunity may be given to the owner to adduce evidence showing that the driver has got a valid and effective driving licence as on the date of accident, so that the liability can be properly fastened.

4. Advocate for claimants has no objection for remanding the matter.

5. Advocate for Insurance Company opposed for remanding the matter.

6. I have perused the impugned order dated 2.1.2015. As rightly pointed out by the Advocate for owner and Advocate for claimants, the Tribunal discharged the Insurance Company from the liability mainly on the ground that driver was not holding licence as on the date of accident. Now the owner contended that his driver has got valid driving licence and he is ready to produce the driving licence to be exhibited as document. Considering the same, I feel that an opportunity should be given so that the liability can be correctly fastened for payment of compensation. However, the Insurance Company is at liberty to adduce any rebuttal evidence, if necessary, after completion of the evidence on owner side.

7. For these reasons, without going into the merits and other findings recorded by the Tribunal, the impugned order dated 2.1.2015 in O.P.No. 270 of 2009 is set aside and the matter is remanded back to the Court below for disposal in accordance with law by giving an opportunity to both parties to lead necessary evidence. The amount deposited by the owner shall be subject to the result of the outcome of the OP. The Tribunal shall dispose of the OP, as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of the order.

8. Accordingly, both appeals are disposed of. There shall be no order as to costs.

9. As a sequel thereto, miscellaneous petitions,

pending if any, shall stand closed.

JUSTICE S. RAVI KUMAR

DATE: 15.07.2016.

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Note: Furnish copy by next week.