



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) .No.365, 830 to 832 of 2016

in

C.M.P. (MD) .Nos.5248, 7879 to 7881 of 2016

C.M.A. (MD) .No.365 of 2016:

The New India Assurance Company Limited,
Represented by its Divisional Manager,
Sathiyamoorthy Illam,
Old No.248, Kamarajar Salai,
Madurai District.

... Appellant/Respondent No.2

Vs.

1.K.Gunasekaran
2.P.Manoharan

... Respondent No.1/Petitioner
... Respondent No.2/Respondent No.1

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and award made in M.C.O.P.No.86 of 2011, dated 10th day of April, 2012 on the file of the Motor Accidents Claims Tribunal, Sub Court, Paramakudi.

For Appellant	: Mr.D.Sivaraman
For R1	: Mr.N.Sudhagar Nagaraj
For R2	: Mr.S.Muthukumar

C.M.A. (MD) .No. 830 of 2016:

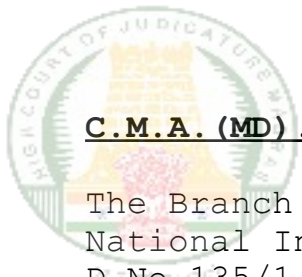
The Branch Manager,
National Insurance Company Limited,
D.No.135/1, Rose Building,
Kovilpatti,
Tuticorin-628 501.

... Appellant/Respondent No.2

Vs.

1.Murugan
2.Kaliyammal
3.Thatchanamoorthy

... Respondent No.1/Petitioner No.1
... Respondent No.2/Petitioner No.2
... Respondent No.3/Respondent No.1

**C.M.A. (MD) .No. 831 of 2016:**

The Branch Manager,
National Insurance Company Limited,
D.No.135/1, Rose Building,
Kovilpatti,
Tuticorin-628 501.

... Appellant/Respondent No.2

Vs.

1.Murugan
2.Thatchanamooty

... Respondent No.1/Petitioner
... Respondent No.2/Respondent No.1

C.M.A. (MD) .No.832 of 2016:

The Branch Manager,
National Insurance Company Limited,
D.No.135/1, Rose Building,
Kovilpatti,
Tuticorin-628 501.

... Appellant/Respondent No.2

Vs.

1. Minor Arun Kumar
(Minor is represented through his
father and natural guardian
Murugan)
2. Thatchanamooty

... Respondent No.1/Petitioner
... Respondent No.2/Respondent

Prayer in C.M.A. (MD) .Nos.830 to 832 of 2016:- Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.Nos.29 to 31 of 2014, dated 19.03.2015 respectively on the file of Motor Accidents Claims Tribunal, II Additional District Judge, Tirunelveli.

In C.M.A. (MD) .Nos.830 to 832 of 2016:

For Appellant	: Mr.D.Sivaraman In all appeals
For R1	: Mr.V.Sasi Kumar in all appeals
For R2	: No appearance in all appeals
For R3	: No appearance in
	C.M.A. (MD) .No.830 Of 2016

COMMON JUDGMENT

Heard the learned counsel on either side.

2.In all these appeals, the offending vehicles insured by the appellant come under the category of Light Motor Vehicles used as Public Service Vehicles. The drivers in these cases were having only Light Motor Vehicle driving licences, without any separate endorsement which would have enabled him to drive even Public Service Transport vehicles also.



3.The contention of the Insurance Company is that since there has been a violation of the policy condition, pay and recovery principle must be applied while passing compensation awards. The Honourable Supreme Court in the decision reported in **2017 (2) TAN MAC 145 (Mukund Dewangam Vs. Oriental Insurance Company Limited)** has held that no separate endorsement on the licence is required to drive a transport vehicle of Light Motor Vehicle clause. The said decision is squarely applicable to the facts and circumstances of the present cases also.

4.The learned counsel appearing for the respondents would bring it to my notice that the Division Bench of this Court has followed this decision and dismissed the appeal filed by the insurer.

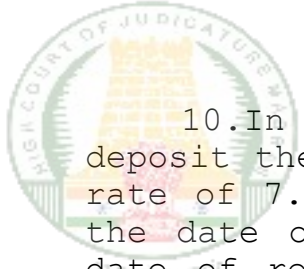
5.In C.M.A.(MD).No.365 of 2016, the award made in M.C.O.P.No.86 of 2011, dated 10th day of April, 2012, on the file of the Motor Accidents Claims Tribunal, Sub Court, Paramakudi, is confirmed.

6.In C.M.A.(MD).Nos.830 to 832 of 2016, the awards made in M.C.O.P.Nos.29 to 31 of 2014, dated 19.03.2015, on the file of Motor Accidents Claims Tribunal, II Additional District Judge, Tirunelveli, are confirmed.

7.In C.M.A.(MD).No.365 of 2016, the appellant is directed to deposit the compensation amount of Rs.1,21,624/- with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the first respondent/claimant is entitled to withdraw the same, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

8.In C.M.A.(MD).No.830 of 2016, the appellant is directed to deposit the compensation amount of Rs.5,00,000/- with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the first and second respondents/claimants are entitled to withdraw the same, as apportioned by the Tribunal, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal.

9.In C.M.A.(MD).No.831 of 2016, the appellant is directed to deposit the compensation amount of Rs.1,40,000/- with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the respondent/claimant is entitled to withdraw the same, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.



10. In C.M.A. (MD).No.832 of 2016, the appellant is directed to deposit the compensation amount of Rs.81,000/- with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. The share of the minor claimant shall be deposited in any one of the Nationalised Bank till the attainment of majority. The natural guardian and his father Murugan, is permitted to withdraw the interest therefrom once in three months directly from the Bank.

11. I therefore find no merit in these appeals. All these Civil Miscellaneous appeals stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,
The Sub Court, The Motor Accidents Claims Tribunal,
Paramakudi.
2. The II Additional District Judge,
The Motor Accidents Claims Tribunal,
Tirunelveli.
3. Mrs.Kaliyammal, W/o.Murugan,
Saradha Nagar, Tirunelveli.
4. Mr.Thatchanamoorthy,
S/o.Subba Reddiyar,
D.No.1/79, Theethampatti,
Koppampatti, Kovilpatti,
Tuticorin District.

Copy To:-

The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

- + 2 CC TO Mr.D.SIVARAMAN, ADVOCATE IN SR No. 91051 & 91056
- + 3 CC TO Mr.V.SASIKUMAR, ADVOCATE IN SR No. 90930 to 90932
- + 1 CC TO Mr.N.SUDHAGAR NAGARAJ, ADVOCATE IN SR No. 91526

TSG/LS

TE/SB/SAR-1 : 09/07/2018 : 4P/13C

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C.M.A. (MD).No.365, 830 to 832 of 2016
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