

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1529 of 2008
and M.P.No.1 of 2008

Branch Manager,
National Insurance Co.Ltd.,
Branch Office,
Anuradha Complex, 3rd Floor,
333, Bangalore Road,
Krishnagiri - 635 001.

.....2nd Respondent/Appellant

Vs

1. Lakshmiammal ..Petitioner/Respondent

2. G.Jayanthi Bai1st Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 27.06.2007 made in M.C.O.P.No.1313 of 2006 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate No-II, Dharmapuri.

For Appellant : Mr.S. Arunkumar
For Respondent-1 : Mr.C.Prakasam
For Respondent-2 : Not ready in notice

JUDGMENT

The instant appeal has been filed by the Insurance Company challenging the Award dated 27.06.2007 passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate No- II, Dharmapuri in M.C.O.P.No.1313 of 2006.

2. The brief facts leading to the filing of the instant appeal are as follows;

(i) The first respondent sustained injuries as a result of an accident on 03.01.2005 caused by a Hero Ezeex Moped bearing Registration No.TN-29-K-7966 owned by the second respondent and insured with the appellant. The first respondent preferred a claim before the Motor Accidents Claims Tribunal in M.C.O.P.No.1313 of 2006 seeking a compensation of Rs.3,00,000/- (Rupees three lakhs only).

(ii) The Motor Accident Claims Tribunal, by its award dated 27.06.2007 in M.C.O.P.No.1313 of 2006, directed the appellant

to pay the first respondent, a sum of Rs.1,09,243/- (Rupees One lakh nine thousand two hundred and forty three only) together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation.

(iii) Aggrieved by the award dated 27.06.2007 passed in M.C.O.P.No.1313 of 2006, the instant appeal has been filed by the Insurance Company.

3. Heard Mr.S.Arun Kumar, learned counsel for the appellant. Despite the name of the learned counsel for the first respondent being printed in the cause list, there is no representation on the side of the first respondent. Since the appeal relates to the year 2008, and this Court is going to confirm the award, there is no necessity to serve the notice on the second respondent.

4. The only ground raised by the appellant in the instant appeal is that the driver of the vehicle insured with the appellant did not possess a valid driving license at the time of the accident. This issue has now been well settled by decisions of this Court as well as the Hon'ble Supreme Court including the decision of the Hon'ble Supreme Court in the case of S.Iyyapan Vs. United India Insurance Company Limited and another reported in (2013) 7 SCC 62 wherein, the Hon'ble Supreme Court has held that when there is a policy violation committed by the insured, the insurer is liable to pay compensation to the third party claimant and recover the same from the owner of the vehicle (insured). In the instant case, pay and recovery rights has been granted to the appellant under the impugned award. In view of the settled law, there is no merit in the instant appeal.

5. Accordingly, the Civil Miscellaneous Appeal is dismissed. No Costs.

6. The appellant-insurance company is directed the deposit the entire award amount to the credit of M.C.O.P.No.1313 of 2006 along with interest awarded by the Tribunal, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, being made, the first respondent is permitted to withdraw the same on filing an appropriate application.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

srn/ebsi

To

1. The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate No- II, Dharmapuri.

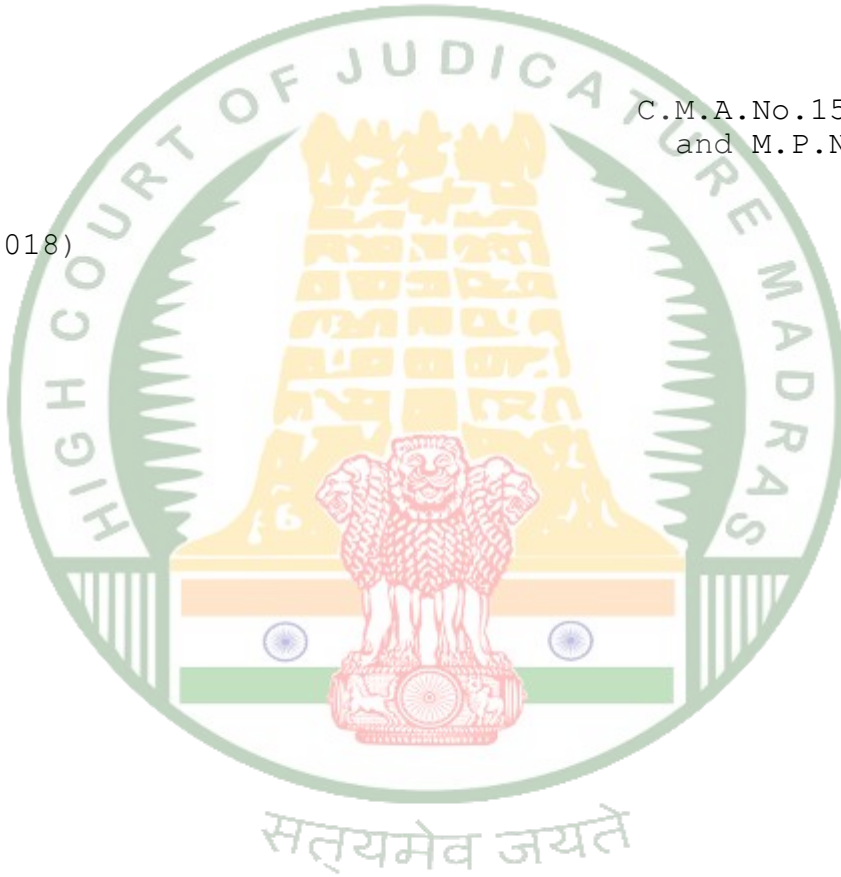
2. The Section officer
VR Section,
High Court, Madras.

+1 CC to Mr.C. Prakasam, Advocate sr 66259.

+1 CC to Mr.S. Arunkumar, Advocate sr 66364.

C.M.A.No.1529 of 2008
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PVS (CO)
SP(31/10/2018)



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