

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2773 of 2011

and

M.P.No.1 of 2011

Branch Manager,
M/s. ICICI Lombard,
Insurance Company Ltd.,
First Floor, "Vigneshwar Crysta",
Pappanaicken Palayam, Coimbatore.
... Appellant/ 2nd Respondent

...Vs...

1.Dhanapal
2.Govindan
...1st Respondent/Claimant
2nd Respondent /1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment in M.C.O.P.No.191 of 2007, dated 12.11.2010 on the file of the Motor Accidents Claims Tribunal (Subordinate Court), Hosur.

For Appellant : Mrs.R.Srividya

For Respondents : No appearance for R1
: R2-Exparte

JUDGMENT

The appellant is the ICICI Lombard Insurance Company Ltd., First Floor, "Vigneshwar Crysta" Pappanaicken Palayam, Coimbatore.

2. The first respondent/claimant filed a claim petition in MCOP.No.191 of 2007 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Hosur, seeking compensation of Rs.3,00,000/- for the injury sustained by him, in a road accident that took place on 05.01.2006.

3. The Insurance Company contested the claim petition by contending that the driver of the offending vehicle namely, Minidor Auto bearing Registration No.TN-29-X-1791 did not have a valid driving of license, on the date of the accident.

<https://hcservices.ecourts.gov.in/hcservices/>

4. In the instant case, the driver of Minidor Auto was in possession of 'Learner's License'.

5. The trial Court after analysing the evidence on record had held that as per the provisions contained under Section 142(9) of the Motor Vehicles Act, 1988, the term license includes the "Learner's License" also and a policy could not contain a clause contrary to the provisions of the Act and therefore, "Learner's License" would also come within the purview of "Duly Licensed". In fact the Tribunal has relied on the decision in National Insurance Company Limited Vs. Swaran Singh & Others, reported in 2004 II L.W.744.

6. Mrs.R.Srividhya, the learned counsel for the appellant would contend that since the Minidor Auto is a public carriage vehicle, the driver of the vehicle should not have driven the auto without a valid driving license. The decision rendered in National Insurance Company Limited Vs. Swaran Singh & Others, reported in 2004 II L.W.744, squarely applies to the facts of the case and a perusal of the records also shows that the claimant has filed the "Learner's License" (Ex.P3).

7. In the facts and circumstances of the present case, the appeal fails and is therefore dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CS viii)

//True Copy//

Sub Assistant Registrar

dna

To

The Subordinate Judge, Motor Accidents Claims Tribunal,
Hosur.

+1cc to Mrs.R.Srividhya , Advocate SR.No. 82109

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A.SK (28/01/2019)