

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.Nos.2108 to 2111 of 2018
and C.M.P.Nos.16428 to 16431 of 2018

The Manager,
M/s.Bajaj Allianz General
Insurance Company Limited,
Peoples Park,
Coimbatore.

... Appellant /2nd Respondent
in all appeals in all MCOPs

Vs.

1.Sakthivel
2.Balamuralikrishnan

3.Panneerselvam ... Respondents in C.M.A.Nos.2108 &
2111 of 2011
...Petitioners 1&2 and 1st Respondent

1.Muthukumar
2.Panneerselvam ...Respondents in C.M.A.No.2109 of 2011/
...Petitioner & 1st Respondent

1.Thulasi @ Ramasamy
2.Muthukumar
3.Panneerselvam ... Respondents in C.M.A.No.2110 of 2011
... Petitioners 1 & 2 and 1st Respondent

Prayer: These Civil Miscellaneous Appeals are filed under
Section 173 of Motor Vehicles Act, 1988, against the judgment
and decree dated 13.10.2017 made in M.C.O.P.Nos.625, 642, 658
and 696 of 2012, on the file of the Motor Accidents Claims
Tribunal, Principal District Court, Namakkal.

For Appellant : M/s.M.B.Gopalan Associates

C O M M O N J U D G M E N T

These Civil Miscellaneous Appeals have been filed against
the award dated 13.10.2017 made in M.C.O.P.Nos.625, 642, 658 and
696 of 2012, on the file of the Motor Accidents Claims Tribunal,
Principal District Court, Namakkal.

2.All the appeals are arising out of the same accident and same award and hence, they are disposed of by this common judgment.

3.Parties in these appeals are referred to by their respective ranks in the claim petitions for the sake of convenience.

4.The appellant/Insurance Company is second respondent in M.C.O.P.Nos.625, 642, 658 and 696 of 2012, on the file of the Motor Accidents Claims Tribunal, Principal District Court, Namakkal. The claimants in M.C.O.P.Nos.625 and 696 of 2012 filed the above claim petitions claiming a sum of Rs.25,00,000/- and Rs.25,00,000/- respectively as compensation for the death of their parents, who died in the accident that took place on 04.03.2012. The claimant in M.C.O.P.No.642 of 2012 filed the above claim petition claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the accident that took place on 04.03.2012. The claimants in M.C.O.P.No.658 of 2012 filed the above claim petition claiming a sum of Rs.15,00,000/- as compensation for the death of one Saraswathi, who died in the accident that took place on 04.03.2012.

5.The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred only due to rash and negligent driving by the driver of the car belonging to the second respondent and directed the appellant/Insurance Company being the insurer of the vehicle to pay a sum of Rs.4,45,000/-, Rs.1,31,340/-, Rs.6,37,000/- and Rs.2,53,000/- respectively, as compensation to the claimants.

6.Against the said award dated 13.10.2017 made in M.C.O.P.Nos.625, 642, 658 and 696 of 2012, the appellant/Insurance Company has come out with the present appeals challenging the liability fastened on them as well as quantum of compensation awarded by the Tribunal.

7.The learned counsel appearing for the appellant/Insurance Company contended that at the time of accident, the driver of the car belonging to the second respondent did not possess valid and effective license and did not obtain any endorsement or badge. The Tribunal without properly appreciating this fact has held that the appellant/Insurance Company is liable to pay compensation. In any event, the amounts awarded by the Tribunal under different heads are excessive and prayed for setting aside the award.

8.Heard the learned counsel appearing for the appellant and perused all the materials available on record.

9. From the materials on record, it is seen that the driver of the car belonging to the second respondent had a license to drive a motor vehicle. The Tribunal has considered the judgment of the Hon'ble Apex Court reported in (2017) 14 Supreme Court Cases 663 [Mukund Dewangan Vs. Oriental Insurance Company Ltd.], wherein it has been held that a person who has a valid license to drive a light motor vehicle can drive a vehicle of same category and obtaining endorsement or badge is not necessary. In view of the judgment of the Hon'ble Apex Court referred to above, the appellant/Insurance Company cannot be exonerated from its liability on the ground that the driver of the offending vehicle did not obtain endorsement or badge. This fact was considered by the Tribunal in proper perspective and held that the appellant/Insurance Company is liable to pay compensation. There is no error in the said reasoning warranting interference by this Court. As far as quantum of compensation is concerned, the Tribunal after considering both the oral and documentary evidence, awarded just compensation to the claimants under different heads. In the above circumstances, this Court is not inclined to interfere with the award passed by the Tribunal.

10. Accordingly, all the Civil Miscellaneous Appeals are dismissed and the award of the Tribunal is confirmed. The appellant/Insurance Company is directed to deposit the entire amount awarded by the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw their respective award amount as apportioned by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn. No costs. Consequently, connected Miscellaneous Petitions are closed.

kj

सत्यमेव जयते Sd/-

Assistant Registrar

//True Copy//

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Sub Assistant Registrar

To
The Motor Accidents Claims Tribunal,
Principal District Judge,
Namakkal.

Copy to:-

The Section Officer,
V.R.Section,
High Court, Madras - 104.

+4CCs to M/s.M.B.Gopalan Associates, Advocate, SR.No.88549,
88550,88551 & 552

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Kak(24/04/2019)



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