

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2018

CORAM :

THE HONOURABLE MR.JUSTICE C.S.SARAVANAN

C.M.A.Nos.1825 & 1826 OF 2009
and M.P.Nos.1 and 1 of 2009

M/s.ICICI Lombard General
Insurance Company Limited,
140, Chottabai Top Centre
Nungambakkam Road,
Chennai - 34.

... Appellant in both C.M.As.

Vs.

1.M.Kumar
2.G.Venkatesan

... Respondents in C.M.A.No.1825/2009

1.K.Thirunavukkarasu,
2.G.Venkatesan
(2nd respondent in both the
appeals is remained exparte
before the Tribunal)

... Respondents in C.M.A.No.1826/2009

Prayer in CMA.No.1825/2009: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree, dated 25.02.2009, made in MCOP.No.970 of 2007, on the file of the Motor Accident Claims Tribunal (Additional District Session Judge - FTC No.1) at Poonamallee.

Prayer in CMA.No.1826/2009: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree, dated 25.02.2009, made in MCOP.No.975 of 2007, on the file of the Motor Accident Claims Tribunal (Additional District Session Judge - FTC No.1) at Poonamallee.

For appellant : Ms. R.Sree Vidhya (in both CMAs.)
for K.S.Narasimhan

For 1st Respondent : Mr.K.Varadha Kamaraj (in both CMAs.)

R2 : Exparte before trail court

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

These appeals are directed against the judgment and decree dated 25.02.2009 in MCOP.Nos.970 and 975 of 2007 on the file of the Motor Accident Claims Tribunal (Additional District Session Judge - FTC No.1) at Poonamallee.

2. By the said judgment and decree dated 25.02.2009 a sum of Rs.74,000/- was awarded in MCOP.No.970 of 2007 impugned in CMA.No.1825 of 2007, and a sum of Rs.10,000/- was awarded in MCOP.No.975 of 2007 impugned in CMA.No.1826 of 2007. The second respondent owner of the vehicle remained ex-parte in the proceeding before the Tribunal.

3. The case of the appellant-Insurance Company Ltd., in both the appeals is that the vehicle was driven by a person who neither possessed a valid license nor a valid permit and therefore the Insurance Company was not liable to pay any compensation. However the learned counsel for the appellant submits that the appellant may be permitted to pay the amount to the 1st respondent and recover the same from the 2nd respondent owner of the vehicle.

4. In this connection, the learned counsel for the appellant-Insurance Company submitted the decision of the Hon'ble Supreme Court in Singh Ram Vs. Nirmala and others, (2018) ACJ 1264.

5. Accordingly, both the civil miscellaneous appeals are partly allowed with a direction to the appellant in both the appeals to pay the amount awarded by the Tribunal to the Claimants / 1st respondent in the respective appeals with liberty to recover the same from the respective owner of the vehicle viz the 2nd respondent. No costs. Consequently, connected miscellaneous petitions are closed.

सत्यमेव जयते

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

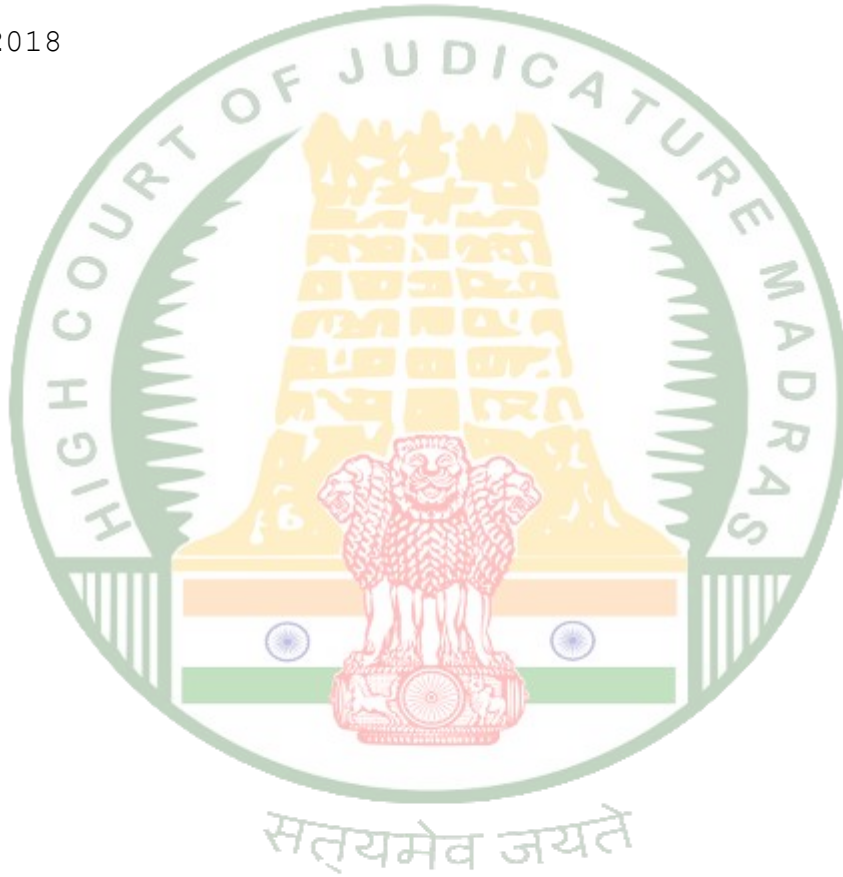
To
1.The Motor Accident Claims Tribunal,
The Additional District and Session Judge,
Fast Track Court No.1, Poonamallee.

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

+lcc to Mrs.R.Sree vidhya, Advocate sr.no.47663
+lcc to Mr.K.Varadha kamaraj, Advocate sr.no.46828

C.M.A.Nos.1825 & 1826 of 2009
and M.P.Nos.1 and 1 of 2009

rv(co)
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