

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2018

CORAM

THE HON'BLE MR. JUSTICE M.GOVINDARAJ

C.M.A.No.2538 of 2013

M/s.Iffco Tokkiyo General Insurance Co.Ltd.,
Tulsi Chamber, 3rd Floor,
195, TV Samy Road(West),
RS Puram, Coimbatore.Appellant

vs.

1.Deepanchakravarthi
2.R.Chandrakala Respondents

Civil Miscellaneous Appeal filed under Order 30 of the Workmen's Compensation Act, 1923, against the judgment and decree in W.C.No.102 of 2009, dated 03.01.2013 (received on 15.3.2013) on the file of the Commissioner for Workmen's Compensation, Deputy Commissioner of Labour, Salem.

For Appellant : Mr.N.Vijayaraghavan

For Respondent : M/s.C.Kulanthaivel

J U D G M E N T

Aggrieved over the award passed by the authority of the Workmen's Compensation Act in W.C.No.102 of 2009 dated 03.01.2003 the Insurance Company has preferred this appeal.

2. The Insurance Company has preferred the appeal on the following substantial questions of law:-

"1. Whether the lower Court is correct in holding the Appellant liable when the petitioner was driving the insured vehicle without possessing valid and effective license on the date of accident?".

3. According to the Insurance Company the appellant was not having valid driving license to drive light motor transport vehicle. Since the driver was not possessing the license for driving the transport vehicle, there is a breach of

policy condition and the Insurance Company is not liable to pay the compensation.

4. The authority below considered the judgment of Hon'ble Supreme Court in the case of National Insurance Company Ltd., Vs Annappa Irappa Nesaria & others reported in (2008 1 TNMAC 200) wherein it was held that :-

"The LMV continued at the relevant point of time to cover both light passenger carriage vehicle and light goods carriage vehicle. A driver who had a valid licence to drive a LMV therefore was authorised to drive a light goods vehicle as well".

5. The authority below had also considered the judgment of Orissa High Court in the case of M/s.United India Insurance Co.Ltd., Vs Prakash Chandra Patra and another reported in (2010 4 TAC 714) that :-

" Applying the principles of law as discussed above to the fact of the present case, I am of the considered view that as the claimant driver was holding a driving licence authorizing him to drive a "light motor vehicle" and admittedly the Auto-rickshaw comes within the definition of a "light motor vehicle" the driving licence held by the claimant-driver was valid and effective and there was no violation of policy condition".

6. Heard both sides.

7. A perusal of materials available on record would go to show that that the issue mainly revolves around the liability of the Insurance Company for want of proper license. It is well settled by the judgment of the Hon'ble Supreme Court in the case of Mukund Dewangan Vs Oriental Insurance Co.Ltd., reported in AIR 2017 SC 3668 that the drivers holding proper license to drive a light motor vehicle are entitled to drive any vehicle which falls within that category clause. In the instant case the vehicle is falling under the category "light motor vehicle". If the driver is possessing license for driving a "light motor vehicle", he is entitled to drive transport vehicle or public carrier falling within that category. It is not the case of the appellant that he was driving the heavy goods vehicle, which belongs to a different clause.

8. Therefore the authority below has rightly followed the judgment of Hon'ble Supreme Court of India in the case of National Insurance Co.Ltd., Vs Annappa Irappa Nesaria and

others reported in AIR 2008 SC 1418 and I do not find any infirmity in the order passed by the authority. Under such circumstances the question of law is answered against the appellant and in the result the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS)

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Sub Assistant Registrar

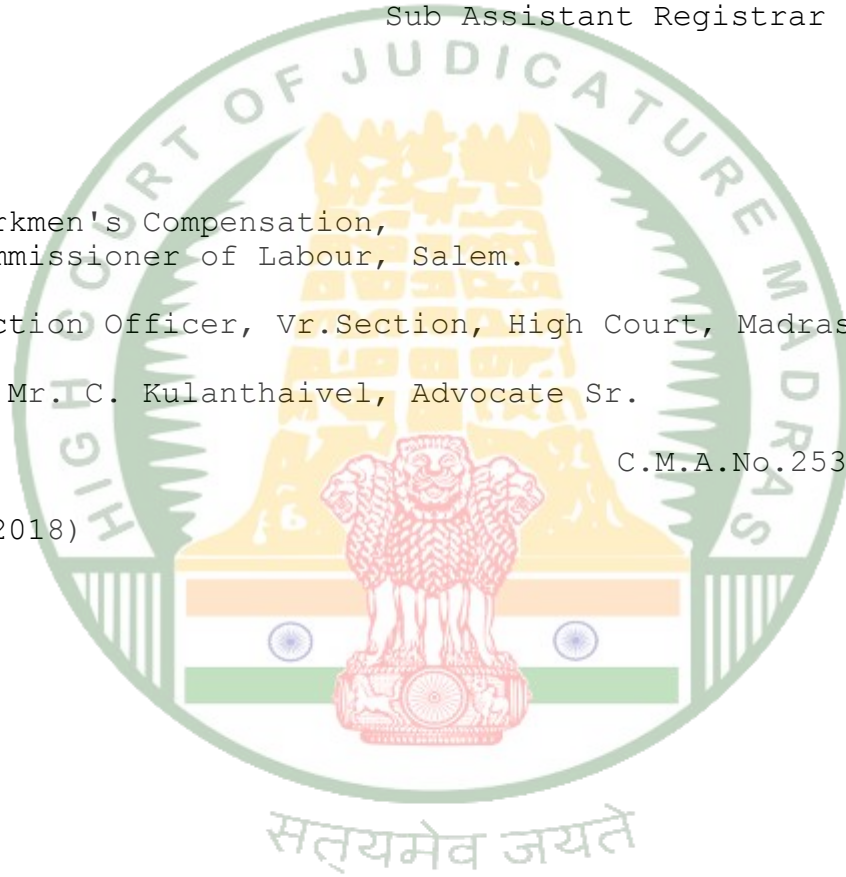
dpq

To

1. The Workmen's Compensation,
Deputy Commissioner of Labour, Salem.
 2. The Section Officer, Vr.Section, High Court, Madras.
- + 1 cc to Mr.C. Kulanthaivel, Advocate Sr.

AD(CO)
EU(10/05/2018)

C.M.A.No.2538 of 2013



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