

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2856 of 2018
and C.M.P.No.21712 of 2018

The Branch Manager,
M/s.Bajaj Allianz General Insurance Company Limited,
No.15, Kolamman Complex,
1st Floor, Saradha College Main Road,
Azhagapuram, Salem - 636 004. .. Appellant/2nd Respondent

Vs.

1.P.Karpagam ..1st Respondent/Petitioner
2.K.Panneerselvam ..2nd Respondent/1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 07.08.2017 made in M.C.O.P.No.736 of 2013, on the file of the Special District Court, (Motor Accidents Claims Tribunal), Salem.

For Appellant : M/s.C.Harini for
M/s.M.B.Gopalan Associates

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 07.08.2017 made in M.C.O.P.No.736 of 2013, on the file of the Special District Court, (Motor Accidents Claims Tribunal), Salem.

2.The appellant is second respondent in M.C.O.P.No.736 of 2013, on the file of the Special District Court, (Motor Accidents Claims Tribunal), Salem. The first respondent filed the above claim petition, claiming a sum of Rs.5,00,000/- as compensation for the death of her son viz., T.K.Balavignesh, who died in the accident that took place on 04.03.2012.

3.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.5,00,000/- as compensation to the first respondent/claimant.

4.Against the said award dated 07.08.2017 made in M.C.O.P.No.736 of 2013, the appellant/Insurance Company has come out with the present appeal.

5.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.

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

7.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.

8.Accordingly, the Civil Miscellaneous Appeal is dismissed and the sum of Rs.5,00,000/- awarded by the Tribunal to the 1st respondent is hereby confirmed. The appellant/Insurance Company is directed to deposit the award amount along with interest and costs, less the amount deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the first respondent/claimant is permitted to withdraw the award amount along with interest and costs, less the amount if any, already withdrawn. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

gsa/krk

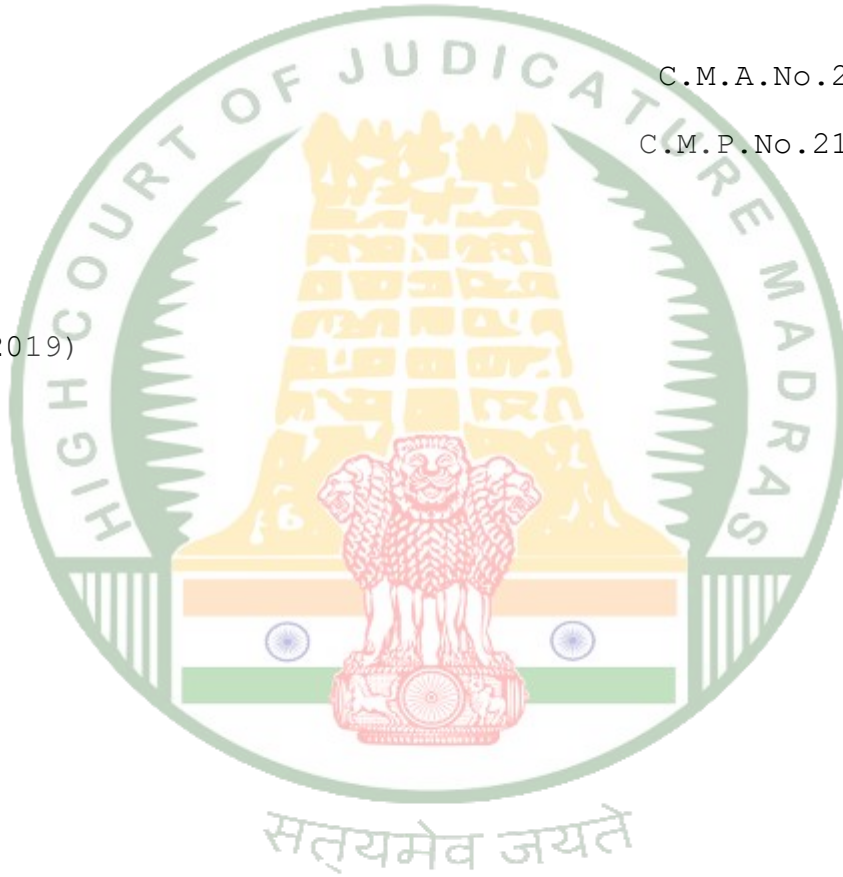
To

The Special District Judge,
Motor Accidents Claims Tribunal,
Salem.

+1 CC to M/s.M.B. Gopalan Associates sr 85575.

C.M.A.No.2856 of 2018
and
C.M.P.No.21712 of 2018

GMR (CO)
SP (15/05/2019)



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