

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2503 of 2018
and C.M.P.No.19102 of 2018

The Divisional Manager,
M/s.The New India Assurance Co.Ltd.,
Pondicherry. .. Appellant

Vs.

1.Anjammal
2.Kuppusamy
3.Velmurugan .. Respondents
(R2 is given up in the appeal)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the judgment and decree dated 21.09.2017 made in M.C.O.P.No.523 of 2014 on the file of the II Additional District Court, (Motor Accident Claims Tribunal), Puducherry.

For Appellant : Mr.M.Krishnamoorthy

J U D G M E N T

This Civil Miscellaneous Appeal is filed by the appellant-Insurance Company, challenging the liability fastened on them by the award dated 21.09.2017 made in M.C.O.P.No.523 of 2014 on the file of the II Additional District Court, (Motor Accident Claims Tribunal), Puducherry.

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

3.The appellant-Insurance Company is the 2nd respondent in M.C.O.P.No.523 of 2014 on the file of the II Additional District Court (Motor Accidents Claims Tribunal), Puducherry. The respondents 1 and 2 filed the said claim petition, claiming a sum of Rs.15,00,000/- as compensation for the death of one Panchasaram, son of the 1st respondent and brother of the 2nd respondent, who died in the accident that took place on 11.06.2013.

4.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the motor

cycle belonging to the 3rd respondent and awarded a sum of Rs.10,07,000/- as compensation to the 1st respondent and directed the appellant as insurer of the vehicle belonging to the 3rd respondent to pay the same.

5. Aggrieved by the said award passed by the Tribunal dated 21.09.2017 made in M.C.O.P.No.523 of 2014, fastening the liability on them, the appellant-Insurance Company has filed the present Civil Miscellaneous Appeal.

6. According to the learned counsel appearing for the appellant, the rider of the motor cycle did not possess any valid driving license at the time of accident and the Tribunal ought to have exonerated the appellant, since the 3rd respondent violated the policy conditions. This issue was considered by this Court in C.M.A.Nos.3425 and 3426 of 2011 and by the judgment dated 12.07.2018, the learned Judge rejected the said contention. As the appellant failed to prove that the rider of the motor cycle did not possess valid driving license. It is pertinent to note that those two appeals also arose out of very same accident and the award of the Tribunal directing the appellant to pay the compensation was upheld by this Court.

7. In view of the same, the present Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

gsa

To

The II Additional District Judge,
(Motor Accident Claims Tribunal), Puducherry.

+1cc to Mr.M.Krishnamoorthy , Advocate SR.No. 88869

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A.SK(21/03/2019)