



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2018

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.(MD)Nos.830 of 2018 &
C.M.P(MD)No.9241 of 2018 &
C.M.A(MD)No.831 of 2018 &
C.M.A(MD)No.832 of 2018 &
C.M.P(MD)No.9243 of 2018

C.M.A(MD)No.830 of 2018

The Divisional Manager,
M/s.Oriental Insurance Co. Ltd.,
Trichy.

... Appellant/Respondent No.2

Vs.

1.Rajathi
S.Saroja (deceased)
2.Subramani

... 1st Respondent/Petitioner... 2nd Respondent/3rd Respondent

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award, dated 27.04.2007 made in M.C.O.P.No.12 of 2005, on the file of the Motor Accident Claims Tribunal, Sub Court, Kuzhithalai.

For Appellant : Mr.Aathimoola Pandian

C.M.A(MD)No.831 of 2018:

The Divisional Manager,
M/s.Oriental Insurance Co. Ltd.,
Trichy.

... Appellant/Respondent No.2

Vs.

1.Pitchaimuthu
S.Saroja (deceased)
2.Subramani

... 1st Respondent/Petitioner... 2nd Respondent/3rd Respondent

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award, dated 27.04.2007 made in M.C.O.P.No.13 of 2005, on the file of the Motor Accident Claims Tribunal, Sub Court, Kuzhithalai.

<https://hcservices.ecourts.gov.in/hcservices/>

For Appellant : Mr.Aathimoola Pandian



C.M.A(MD)No.832 of 2018

The Divisional Manager,
M/s.Oriental Insurance Co. Ltd.,
Trichy.

... Appellant/Respondent No.2

Vs.

1.Nallammal
S.Saroja (deceased)
2.Subramani

... 1st Respondent/Petitioner
... 2nd Respondent/3rd Respondent

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award, dated 27.04.2007 made in M.C.O.P.No.14 of 2005, on the file of the Motor Accident Claims Tribunal, Sub Court, Kuzhithalai.

For Appellant : Mr.Aathimoola Pandian

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COMMON JUDGMENT

All the three appeals arise out of common award passed by the Motor Accident Claims Tribunal, Sub Court, Kuzhithalai, in M.C.O.P.Nos.12,13 & 14 of 2005, dated 27.04.2007.

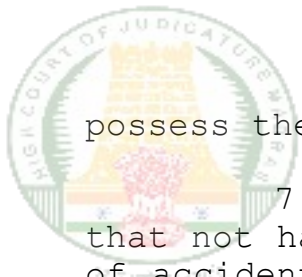
2.In view of the above facts, all the appeals are disposed of by this common judgment.

3.The parties are referred to as per their rank in the claim petitions.

4.The claimants filed the claim petitions in M.C.O.P.No.12, 13 & 14 of 2005, before the Motor Accident Claims Tribunal, Sub Court, Kuzhithalai, claiming a sum of Rs.20,000/-, Rs.1,00,000/- and Rs.2,00,000/- respectively, as compensation, for the injuries suffered by them in the accident that occurred on 13.09.2004. The Claimants filed the claim petition originally against one Saroja as first respondent and appellant as second respondent. After the death of Saroja, the second respondent was brought on record as her legal representative.

5.The Tribunal, considering the pleadings, oral and documentary evidence held that the accident occurred due to rash and negligent driving by driver of the TATA Sumo Car belonging to the second respondent herein and directed the appellant to pay the compensation to the claimants.

6.These appeals have been filed by the appellant Insurance Company only on the ground that the driver of the vehicle did not



possess the valid driving licence with endorsement.

7.The learned counsel appearing for the appellant contended that not having the valid driving licence by the driver at the time of accident is a violation of policy condition and in view of such violation, the second respondent is not liable to pay compensation, is without merits. Now, it is well settled that when a person possessing valid driving licence to drive the particular type of vehicle and not obtaining endorsement for driving a commercial vehicle will not exonerate the Insurance Company from its liability.

8.In view of the Judgment of the Hon'ble Apex Court reported in **2017(2) TNMAC 145 (SC) (Mukund Dewangan Vs. Oriental Insurance Company Limited)**, the award of the Tribunal directing the appellant to pay compensation to the claimants is confirmed.

9.With the above observation, these Civil Miscellaneous Appeals are dismissed confirming the award of the Tribunal. The appellant is directed to deposit the award amount, less the amount already deposited, if any, along with accrued interest and costs to the credit of M.C.O.P.Nos.12, 13 & 14 of 2005, on the file of the Motor Accident Claims Tribunal, Sub Court, Kuzhithalai, within a period of **eight weeks** from the date of receipt of copy of this judgment. On such deposit being made, the claimants are entitled to withdraw the award amount with interest by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Subordinate Judge,
Motor Accident Claims Tribunal,
Kuzhithalai.
2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

AM

TE/PM/SAR-3 : 05/02/2019 : 3P/4C

C.M.A. (MD) Nos.830 to 832 of 2018
20.09.2018