

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.686 of 2011

and

M.P.No.1 of 2011

M/s.ICICI Lombard Motor Insurance
Company Limited,
Mahalakshmi
Mumbai

Branch Office at
J.P.Towers, 256 to 258
1st Floor, Sathy Road,
Erode - 638 003.

.. Appellant/3rd Respondent

Vs.

1.Safiq Ahamed

2.P.Murugesan

3.M.Hemalatha

... 1st Respondent/Petitioner

.. Respondents 2 & 3/
Respondents 1 & 2

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 17.06.2010 made in M.C.O.P.No.236 of 2008 on the file of the Motor Accident Claims Tribunal (Principal Subordinate Judge) at Erode.

For Appellant : M/s.R.Sreevidhya

For R1 : No appearance

For R2 & R3 : Given up

JUDGMENT

The 3rd respondent before the Tribunal, is the appellant herein.

2. This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 17.06.2010 made in M.C.O.P.No.236 of 2008 on the file of the Motor Accident Claims Tribunal (Principal Subordinate Judge) at Erode.

3. The learned counsel for the Insurance Company has drawn my attention to Ex.R1 driving license and contended that as per the requirement, the badge endorsement is required in respect of even the Light Motor Vehicle (LMV) and further, the badge endorsement has not been made and therefore, it is a violation of the policy condition and hence, the Tribunal ought to have awarded compensation under 'pay and recovery' method.

4. It appears from the discussion of the Tribunal that based upon the evidence of Exhibit R1 driving license and Exhibit R2 Motor Vehicle's Report and Exhibits P4 and P5, the Tribunal has come to the conclusion that the light and weight of the offending vehicle was 1350 kgs and the driver at the time of the accident, has possessed valid driving license to drive the LMV and hence, following the decision of this Court reported in 2010 (1) TN MAC 321 (The Branch Manager, M/s.New India Assurance Company Limited Vs.1.Umaiya Kumar & 7 others), the requirement of the badge is not necessary, since it comes within the proviso of Section 2(21) of the Motor Vehicles Act and in view of the possession of valid driving license as per Exhibit R1, the Tribunal has rejected the contention raised by the Insurance Company. On re-appreciation of the factual position and also the documentary evidence available on record, this Court finds that the said finding by the Tribunal does not warrant any interference.

5. On the point of quantum of compensation, taking into consideration the entirety of injuries sustained by the claimant and he has also taken treatment in Appollo Hospital and produced medical bills of the said hospital, which have been marked under Exhibit P9 series and also the discharge summary marked as Exhibit P8 and wound certificate marked as Exhibit P7 and the Doctor who examined the injury namely P.W.2 Doctor who had issued Exhibit P10 permanent disability, the Tribunal has arrived at the calculation and awarded reasonable amount and the award of compensation by the Tribunal cannot be termed to be excessive.

6. In such view of the matter, this Civil Miscellaneous Appeal is dismissed. The learned counsel for the appellant/Insurance Company has submitted that the entire amount

awarded by the Tribunal has already been deposited before the Tribunal. It is open to the first respondent/claimant to file appropriate petition before the Tribunal for withdrawal of the compensation amount. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

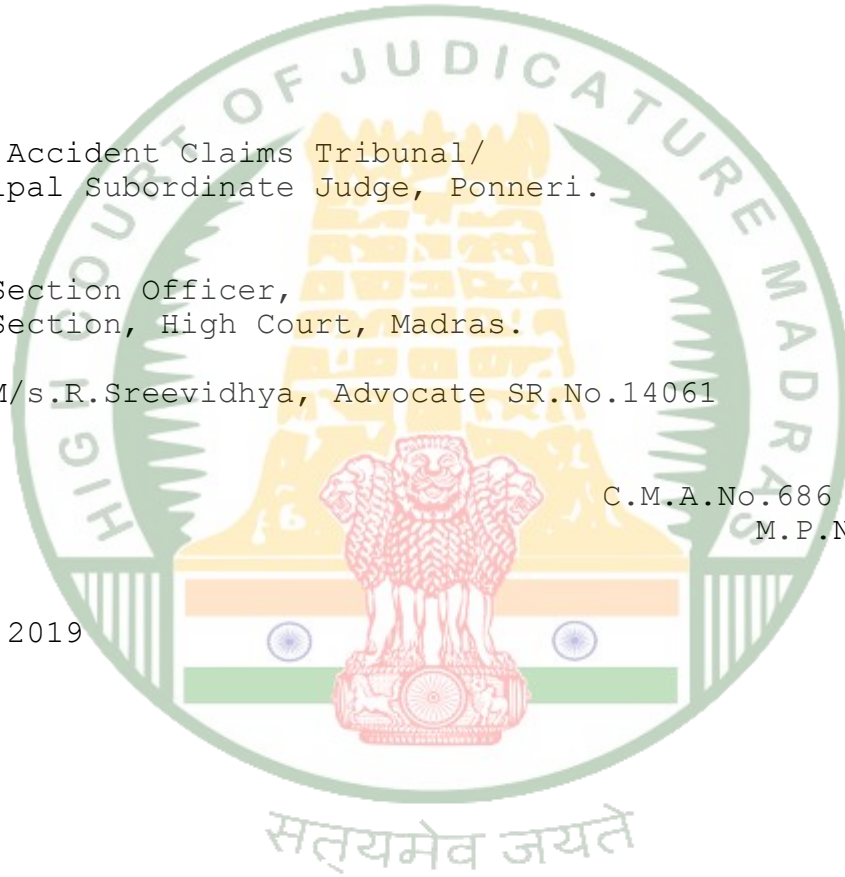
The Motor Accident Claims Tribunal/
Principal Subordinate Judge, Ponneri.

Copy To:
The Section Officer,
V.R.Section, High Court, Madras.

+1 cc to M/s.R.Sreevidhya, Advocate SR.No.14061

C.M.A.No.686 of 2011 and
M.P.No.1 of 2011

RV(CO)
CSL/02.04.2019



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