

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3375 of 2013

and

M.P.No.1 of 2013

The New India Assurance Co.Ltd.,
No.1, Bharathi Road,
Cuddalore - 607 001.

...Appellant

vs

1.Vennila

2.Sivagami

3.Rathinasamy

4.M/s.United India Insurance Co.Ltd.,
Visitors Road, Block - 2,
Neyveli - 607 801.

(The 4th respondent in CMA is an unnecessary
party and is hereby given up)

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 of Workmen's Compensation Act, 1923, to set aside the order dated 27.06.2013 made in W.C.No.286 of 2010 by the Commissioner for Workmen's Compensation-II (Deputy Commissioner of Labour-II) at Chennai - 600 006 and to dismiss the said claim application.

For Appellant : Mr.C.Ramesh Babu

For R2 & R3 : No appearance

J U D G M E N T

The appellant Insurance Company is aggrieved by the impugned order dated 27.06.2013 passed by the Deputy Commissioner of Labour - 2, Chennai in W.C.No.286 of 2010.

2.By the impugned order, the Deputy Commissioner of Labour has awarded a sum of Rs.4,15,960/- as compensation together with Rs.2,500/- for funeral expenses to the 1st & 2nd respondents /claimants who are the dependents of the deceased Palanisamy.

3.Aggrieved by the same, the present Civil Miscellaneous Appeal has been filed by the Insurance Company.

4.In the present Civil Miscellaneous Appeal, the appellant has raised the following substantial questions of law for consideration:-

- i. Whether the driver of the Van had valid and effective driving licence at the time of accident?
- ii. Whether the appellant being an insurer of the vehicle is liable to pay the compensation to the legal heirs of the deceased when there was no endorsement to drive Goods Carriage Vehicle?

5.The learned counsel for the appellant submits that the deceased Palanisamy had licence only for light motor vehicle (LMV) but there was endorsement or badge for driving Goods Carrying - Public Carriers.

6.Heard the learned counsel for the appellant. Though the name of the respondents are printed in the cause, there is no representation for the respondents. Therefore, the case is taken up for hearing.

7.The issue is squarely covered by the decision of the Hon'ble Supreme Court in Jagdish Kumar Sood vs United India Insurance Co.Ltd., and Others, (2018) 3 SCC 697. The court held as follows:-

4. The issue which arises before the Court is not res integra and is covered by a judgment of three Judges of this Court in Mukund Dewangan v. Oriental Insurance Co. Ltd. [Mukund Dewangan v. Oriental Insurance Co. Ltd., (2017) 14 SCC 663] in which it has been inter alia held as follows: (SCC pp. 709-10, paras 60.1 & 60.2)

"60.1. "Light motor vehicle" as defined in Section 2(21) of the Act would include a

transport vehicle as per the weight prescribed in Section 2(21) read with Sections 2(15) and 2(48). Such transport vehicles are not excluded from the definition of light motor vehicle by virtue of Amendment Act 54 of 1994."

"60.2. A transport vehicle and omnibus, the gross vehicle weight of either of which does not exceed 7500 kg would be a light motor vehicle and also motor car or tractor or a roadroller, "unladen weight" of which does not exceed 7500 kg and holder of a driving licence to drive class of "light motor vehicle" as provided in Section 10(2)(d) is competent to drive a transport vehicle or omnibus, the gross vehicle weight of which does not exceed 7500 kg or a motor car or tractor or roadroller, the "unladen weight" of which does not exceed 7500 kg. That is to say, no separate endorsement on the licence is required to drive a transport vehicle of light motor vehicle class as enumerated above. A licence issued under Section 10(2)(d) continues to be valid after Amendment Act 54 of 1994 and 28-3-2001 in the form."

8. In the light of the above judgment, the substantial questions are answered against the appellant and therefore, the present Civil Miscellaneous Appeal is dismissed. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner for Workmen's Compensation-II,
(Deputy Commissioner of Labour-II),
Chennai - 600 006.

2. The Section Officer,
V.R. Section, High Court, Madras.

+1cc to Mr.C.Ramesh , Advocate SR.No. 99886

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and

M.P.No.1 of 2013

A.SK(27/01/2020)