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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1593 of 2018
and C.M.P.No.12616 of 2018

M/s.Reliance General Insurance Co. Ltd.,
Reliance House, 6th Floor,
Nungambakkam,
Chennai 600 006. .. Appellant / 2nd Respondent

Vs.

1.G.Pakkiri Raj .. 1st Respondent / Petitioner

2.K.David Kumar .. 2nd Respondent / 1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 07.08.2017 made in M.C.O.P.No.510 of 2014 on the file of the IV Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

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

For R1 : R.Nalliyappan

J U D G M E N T

This Civil Miscellaneous Appeal is filed by the appellant-Insurance Company against the award dated 07.08.2017 made in M.C.O.P.No.510 of 2014 on the file of the IV Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

2.By consent of the learned counsel appearing for the appellant as well as the 1st respondent, the appeal is taken up for final disposal at the admission stage itself.

3.The appellant is the 2nd respondent in M.C.O.P.No.510 of 2014 on the file of the IV Small Causes Court, (Motor Accident Claims Tribunal), Chennai. The 1st respondent filed the said claim petition claiming a sum of Rs.6,00,000/- as compensation for the injuries sustained by him in the accident that took place on 02.01.2014.



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 TATA Magic belonging to the 2nd respondent insured with the appellant-Insurance Company and directed the appellant-Insurance Company to pay a sum of Rs.1,96,600/- as compensation to the 1st respondent.

5.Challenging the said award dated 07.08.2017 made in M.C.O.P.No.510 of 2014, the appellant has come out with the present appeal.

6.The learned counsel appearing for the appellant contended that the Tribunal failed to see that the driver of the TATA Magic did not possess valid driving license to drive the transport vehicle. The appellant has examined an Official from RTO and proved that the 2nd respondent did not possess badge or endorsement for driving the commercial vehicle. The 2nd respondent by violating the policy condition, permitted the driver to drive the transport vehicle without valid driving license and hence, the appellant is not liable to pay compensation. The Tribunal erred in awarding huge sum as compensation and prayed for setting aside the award of the Tribunal.

7.Heard the learned counsel appearing for the appellant as well as the 1st respondent and perused the materials available on record.

8.From the materials on record, it is seen that the driver of the TATA Magic possessed driving license to drive the light motor vehicle. The appellant has let in evidence to show that the driver did not obtain badge or endorsement in the license. The learned counsel appearing for the appellant contended that in view of not obtaining the badge or endorsement in the license, the appellant is not liable to pay compensation. This contention is without merits in view of the judgment of the Hon'ble Apex Court reported in 2017 (2) TN MAC 145 (SC) [Mukund Dewangan Vs. Oriental Insurance Co. Ltd.,]. In the said judgment, the Hon'ble Apex Court has held that once a person possess valid driving license to drive a particular class of vehicle, he is entitled to drive all category of vehicles in that class and there is no necessity to obtain badge or endorsement. In view of the judgment of the Hon'ble Apex Court, the finding of the Tribunal that the appellant is liable to pay compensation on behalf of the 2nd respondent is not erroneous.



9. In view of the order passed in C.M.A.No.1458 of 2019 filed by the 1st respondent, the appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The IV Small Causes Judge,
(Motor Accident Claims Tribunal),
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras.

+1 cc to M/s.M.B.Gopalan Associates, Advocate, S.R.No.36023

C.M.A.No.1593 of 2018
and C.M.P.No.12616 of 2018

MG(CO)
SSM(06/11/2019)