

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2603 of 2018
and C.M.P.No.19677 of 2018

The Branch Manager,
M/s.Bajaj Allianz General Insurance Company Limited,
No.15, Kolamman Complex,
1st Floor, Saradha College Main Road,
Azhaapuram, Salem - 636 004.

... Appellant/2nd Respondent

Vs.

1.P.Palaniappan
2.P.Senthil Kumar
3.P.Karpagam

... 1 to 3 Respondents/Claimants

4.K.Panneerselvam

... 4th Respondent/1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 07.08.2017 made in M.C.O.P.No.737 of 2013, on the file of the Special District Court, (Motor Accidents Claims Tribunal), Salem.

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

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 07.08.2017 made in M.C.O.P.No.737 of 2013, on the file of the Special District Court, (Motor Accidents Claims Tribunal), Salem.

2.The appellant is second respondent in M.C.O.P.No.737 of 2013, on the file of the Special District Court, (Motor Accidents Claims Tribunal), Salem. The respondents 1 to 3 filed the above claim petition, claiming a sum of Rs.5,00,000/- as compensation for the death of her son viz., Samboornam, who died in the accident that took place on 04.03.2012.

3.The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred only due to rash and negligent driving by the driver of the car belonging to the 4th respondent and directed the appellant/Insurance Company being the insurer of the vehicle to pay a sum of Rs.3,22,000/- as compensation to the respondents 1 to 3/claimants.

4.Against the said award dated 07.08.2017 made in M.C.O.P.No.737 of 2013, the appellant/Insurance Company has come out with the present appeal.

5.The learned counsel appearing for the appellant/Insurance Company contended that at the time of accident, the driver of the car belonging to the 4th respondent did not possess valid and effective license and did not obtain any endorsement or badge. The Tribunal without properly appreciating this fact has held that the appellant/Insurance Company is liable to pay compensation. In any event, the amounts awarded by the Tribunal under different heads are excessive and prayed for setting aside the award.

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

7.From the materials on record, it is seen that the driver of the car belonging to the 4th respondent had a license to drive a light motor vehicle. The Tribunal has considered the judgment of the Hon'ble Apex Court reported in (2017) 14 Supreme Court Cases 663 [Mukund Dewangan Vs. Oriental Insurance Company Ltd.,], wherein it has been held that a person who has a valid license to drive a light motor vehicle can drive a vehicle of same category and obtaining endorsement or badge is not necessary. In view of the judgment of the Hon'ble Apex Court referred to above, the appellant/Insurance Company cannot be exonerated from its liability on the ground that the driver of the offending vehicle did not obtain endorsement or badge. This fact was considered by the Tribunal in proper perspective and held that the appellant/Insurance Company is liable to pay compensation. There is no error in the said reasoning warranting interference by this Court.

8.Accordingly, the Civil Miscellaneous Appeal is dismissed and the sum of Rs.3,22,000/- awarded by the Tribunal to the respondents 1 to 3 is hereby confirmed. The appellant/Insurance Company is directed to deposit the award amount along with interest and costs, less the amount deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents 1 to 3/claimants are permitted to withdraw their shares of the award amount along with interest and costs, as per the ratio of apportionment fixed

by the Tribunal, less the amount if any, already withdrawn by filing necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gsa

To

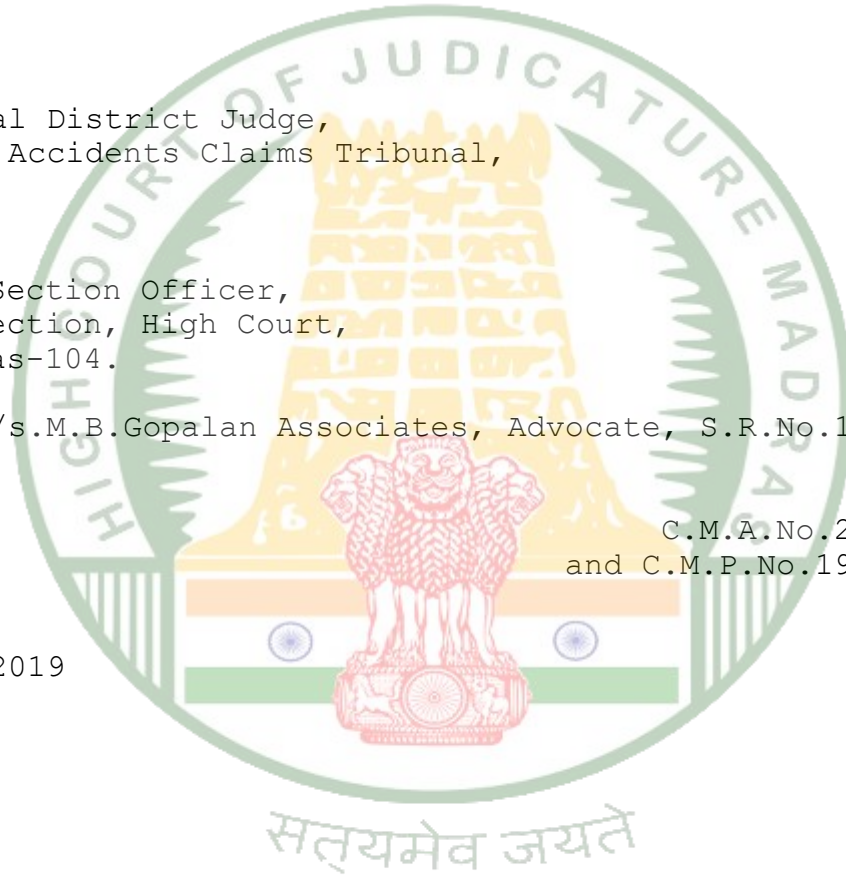
The Special District Judge,
The Motor Accidents Claims Tribunal,
Salem.

Copy To
The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to M/s.M.B.Gopalan Associates, Advocate, S.R.No.13648

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CS/17/07/2019



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