

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2541 of 2012

M/s.Bharti Axa General Insurance Co. Ltd.,
Divya Trade Centre, 1st Floor,
No.11, Brindavan Road,
Fair Land, Salem - 636 016.

... Appellant/3rd Respondent

..Vs..

1.Chitra

2.Prakash

3.Sangeetha

4.Muniappan

5.G.Munusamy

6.C.Sivakumar

... Respondents/Petitioners 1 to 4

and Respondents 1 & 2

(6th Respondent ex parte in
Lower Court)

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree in MCOP.No.127 of 2010 dated 25.02.2011 on the file of the Motor Accident Claims Tribunal, Principal District Court, Dharmapuri.

For Appellant : Mr.Rajadurai
for Mr.M.B.Gopalan
For Respondents 1 to 3 : No Appearance
For Respondents 4 : Died
For Respondent 6 : Ex parte
Not ready in notice reg R5.

JUDGMENT

(This Appeal was taken up for hearing through Video Conferencing)

This Appeal has been filed by the insurance company challenging the award dated 25.02.2011 passed by the Motor Accident Claims Tribunal (Principal District Court, Dharmapuri) in MCOP.No.127 of 2010.

2. The only ground raised by the Appellant Insurance company is that the driver of the insured transport vehicle did not possess the requisite badge in his driving licence which is required for driving a transport vehicle and hence, they are not

liable to compensate the claimants who are the respondents 1 to 4 in this appeal. Eventhough they have questioned the quantum of the compensation assessed by the Tribunal, they have not pointed out in the grounds of appeal as to how the compensation awarded by the Tribunal is excessive.

3. Heard Mr.Rajadurai learned counsel representing Mr.M.B.Gopalan, learned counsel for the Appellant. Despite service of notice on the respondents 1 to 3, there is no representation on their side. Respondent 4 is died. Since this Court is going to confirm the award, there is no necessity for completion of service of notice on the respondents 5 & 6.

4. It is now well settled as laid down by the Hon'ble Supreme Court in the case of Mukund Dewangan vs. Oriental Insurance Company Limited reported in 2016 (4) SCC 298 that the holder of a driving licence having licence to drive a light motor vehicle as provided in section 10(2)(d) of the Motor Vehicles Act is competent to drive a transport vehicle whose gross unladen weight does not exceed 7500 Kgs and a separate endorsement on the licence is not required. Admittedly, the unladen weight of the transport vehicle involved in the subject accident does not exceed 7500 kgs. Hence, the driver is not required to possess a special endorsement in his driving licence. The Tribunal has rightly held the Appellant insurance company liable. Hence, the ground raised by the Appellant in this Appeal questioning its liability to pay the compensation is unsustainable.

5. In the result, there is no merit in this appeal and the appeal is dismissed. The Appellant Insurance Company is directed to deposit the Award amount together with interest from the date of claim till the date of deposit and costs as assessed by the Tribunal after deducting the amount already deposited to the credit of MCOP.No.127 of 2010 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the respondents are permitted to withdraw their respective shares as per the ratio apportioned by the Tribunal by filing appropriate applications. Consequently, connected miscellaneous petition is closed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

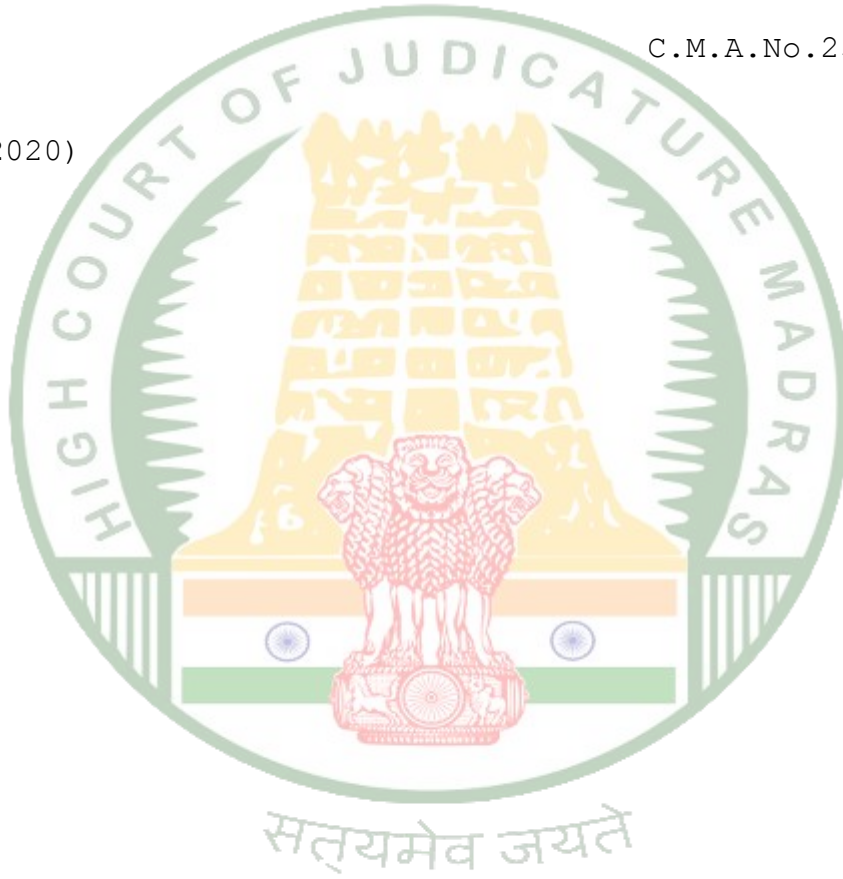
To

1.The Principal District Judge/
Motor Accident Claims Tribunal
Dharmapuri

Copy to
The Section Officer
V.R.Section, High Court of Madras.

C.M.A.No.2541 of 2012

SS(CO)
SP(14/12/2020)



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