

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.Nos.2433 and 2434 of 2014 &
M.P.No.1 & 1 of 2014

C.M.A.No.2433 of 2014:

United India Insurance Co. Ltd.,
Rep. By its Manager,
R.P.R.Complex,
Bye-pass Road, Dharmapuri. ... Appellant/3rd Respondent

...Vs...

1. Saritha
2. Vignesh (Minor)
3. Santhosh (minor)
4. Sanjay (minor)
Respondents 2 to 4 are minor respondents
rep. By mother & NF 1st respondent)

5. Madhu ...Respondents 1 to 5/Petitioners 1 to 5
6. C.Vijayan
7. N.Manikandan
(Respondent 7 is set
ex-parte in the lower court) Respondents 6 & 7/
1 & 2 Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and Decree dated 31.10.2011 made in MCOP No.46 of 2010 on the file of the Motor Accident Claims Tribunal (Principal District Court), Dharmapuri.

For Appellant : Mr.E.Rajadurai
For Mr.N.Vijayaraghavan

For Respondents : Served - No appearance - R1
R2 to R4-Minors
Exparte - R7

Not ready in notice regarding R5 and R6

C.M.A.No.2434 of 2014:

United India Insurance Co. Ltd.,
Rep. By its Manager,
R.P.R.Complex,
Bye-pass Road, Dharmapuri.

... Appellant/3rd Respondent

..Vs..

1. Soundarrajan @ Soundaraji ...1st Respondent/Petitioner
2. C.Vijayan
3. N.Manikandan ... 2nd and 3rd Respondents/1 & 2 Respondents
(3rd respondent ex-parte in lower Court)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against judgment and decree in MCOP. No.175 of 2011 dated 31.10.2011 on the file of the Motor Accidents Claims Tribunal, (Principal District Court) Dharmapuri.

For Appellant : Mr.E.Rajadurai
For Mr.N.Vijayaraghavan
For Respondents : Served - No appearance - R1
Exparte - R3
Not ready in notice regarding R2

C O M M O N J U D G M E N T

[These Appeals have been taken up for hearing through Video conferencing]

These appeals have been filed by the Insurance Company challenging the common award dated 31.10.2011 passed by the Motor Accident Claims Tribunal, (Principal District Judge), Dharmapuri in MCOP. Nos.46 of 2010 and 175 of 2011.

2. The claim in MCOP. No.46 of 2010 arises out of a fatal accident and the claim in MCOP. No.175 of 2011 is made by an injured claimant. Both the claims arises out of the same accident and a common award has been passed by the Tribunal.

3. Since the issues raised in both these appeals are one and the same and the impugned award is common, this Court disposes of both these appeals by a common judgment.

4. The only issue raised in these appeals is that the driver of the insured vehicle did not possess a valid driving license for driving a goods vehicle at the time of the accident and hence, the Appellant insurance company is not liable to compensate the respective claimants.

5. Admittedly, the unladen weight of Tata Ace goods vehicle (insured vehicle) is below 7500 Kgs. As per the decision of the Hon'ble Supreme Court, in the case of Mukund Dewangan vs. Oriental Insurance Co. Ltd., reported in 2017 (2) TN MAC 145 (SC), wherein the Supreme Court held that there is no necessity for a special badge endorsement in a driving license when the unladen weight of the goods vehicle is less than 7500 Kgs.

6. Admittedly, the driver of the insured vehicle was possessing a valid LMV driving license, which was marked as Ex.B2, before the Tribunal. In view of the settled position of law, the Appellant insurance company cannot escape from its liability and hence, there is no merit in these appeals.

Conclusion:

7. Accordingly both these appeals are dismissed and the common award passed by the Motor Accidents Claims Tribunal in MCOP. Nos.46 of 2010 and 175 of 2011 dated 31.10.2011 is confirmed. No costs. Consequently, connected miscellaneous petitions are closed.

8. 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, if any, already deposited to the credit of MCOP. Nos.46 of 2010 and 175 of 2011, within a period of four weeks from the date of receipt of a copy of this Common Judgment.

9. On such deposit being made, the Tribunal is directed to transfer the respective shares of award amount along with accrued interest lying to the credit of MCOP.No.46 of 2010 to the bank accounts of first and fifth respondents in CMA.No.2433 of 2014 in the ratio apportioned by the Tribunal and also directed to transfer the award amount along with accrued interest lying to the credit of MCOP.No.175 of 2011 to the bank account of the first respondent/claimant in CMA.No.2434 of 2014. Since the claimants/respondents 2 to 4 in CMA.No.2433 of 2014 are minors, their respective shares of award amount shall be deposited in a fixed deposit in any one of the Nationalized Bank till they attain majority and till such time, the interest accrued thereon shall be withdrawn by the first

respondent/guardian of the minor claimants once in three months, directly from the Bank. If they have attained majority, it is open for them to file a formal petition before the Tribunal to get their respective shares of award amount.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rli
To

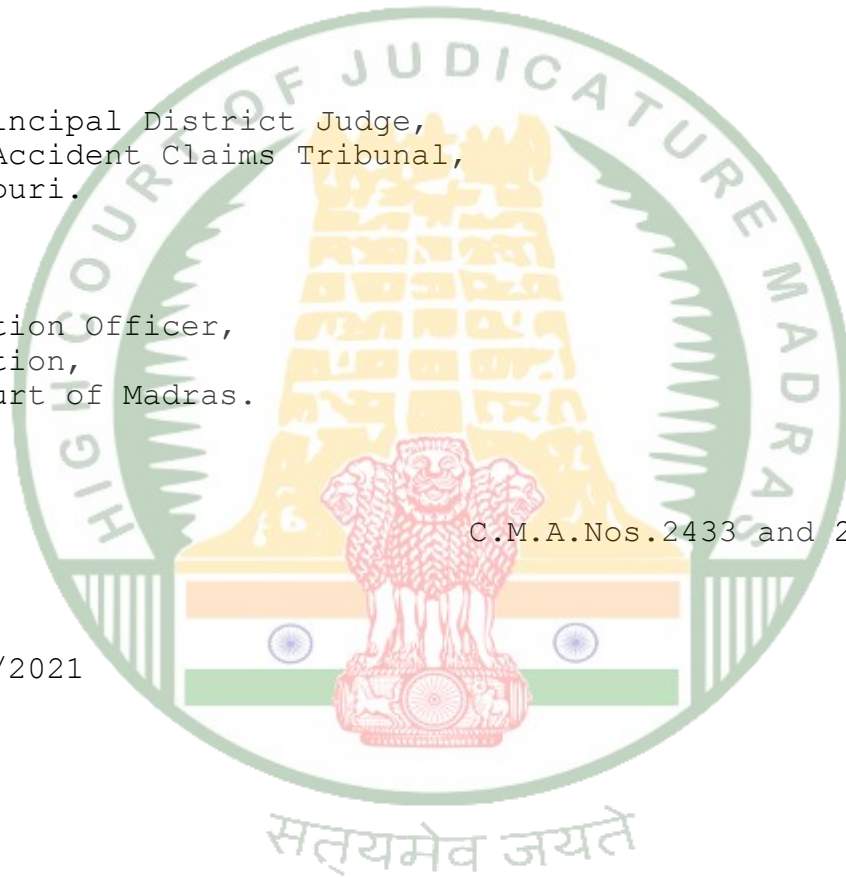
The Principal District Judge,
Motor Accident Claims Tribunal,
Dharmapuri.

Copy to

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

C.M.A.Nos.2433 and 2434 of 2014

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