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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

CMA No.2878 of 2015

and

MP No.1 of 2015

The Branch Manager,
The New India Assurance Co. Ltd.,
83, TSR Big Street,
Kumbakonam & Munsifi

... Appellant / 2nd Respondent

Versus

1.A. Thangavel

... 1st Respondent / Petitioner

2. M.Iyyappan

... 2nd Respondent / 1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree made in MACTOP No.47 of 2014 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate) at Thiruvarur dated 21.01.2015.

For Appellant : Mr. S.M.Krishnamoorthy

For Respondents : Mr.P.Thiyagarajan for R1
R2 - Died - steps due

JUDGMENT
(Heard Video Conference)

This appeal has been filed by the Insurance Company challenging its liability under the impugned award dated 21.01.2015 passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate) at Thiruvarur in MACTOP No.47 of 2014.



2. The only ground raised by the appellant / Insurance Company while challenging the impugned award is that the Driver of the vehicle, who caused the accident was not possessing a valid Driving Licence.

4. Heard Mr.S.M.Krishnamoorthy, learned counsel for the appellant / Insurance Company and Mr.P.Thiyagarajan, learned counsel for the 1st respondent.

5. This Court has perused the materials and evidence available on record before the Tribunal.

6. Before the Tribunal, the respondents / claimants have filed ten documents, which were marked as Exs. P1 to P10 and two witnesses were examined on their side viz., PW1, the 1st respondent / claimant himself and Dr.Ramachandran, who examined him as PW2. On the side of the appellant / Insurance Company two documents were filed viz., the Insurance policy copy as Ex.R1 and Learner's licence copy as Ex.R2 and one witness was examined on their side viz., Kannan, their official as RW1.

7. Admittedly, as seen from the evidence available on record, the Learner's Licence of the Driver of the vehicle has been marked as Ex.R2. It is now settled law that as per the decision of the Hon'ble Supreme Court in the case of Mukund Dewangan versus Oriental Insurance Company Limited reported in 2016 4 SCC 298, the Learner's licence to drive the Light Motor Vehicle is a valid and effective licence for the purpose of claiming compensation involving a Light Motor Vehicle like that of an Autorickshaw. The Hon'ble Supreme Court has also held that for such a Light Motor Vehicle, a separate badge endorsement is not required.

8. In the case on hand, the copy of the Learner's licence of the Driver of the vehicle has been marked as Ex.R2 and therefore, the claimant has satisfied the requirements as laid down in the decision of the Hon'ble Supreme Court in the case of Mukund Dewangan referred to supra. Therefore, this Court is of the considered view that there is no merit in this appeal and accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.



9. The appellant / Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of MACTOP No.47 of 2014 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate) at Thiruvavur, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the first respondent / claimant, through RTGS, within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

vsi2

To

The Chief Judicial Magistrate,
Tiruvavur.

CMA No.2878 of 2015

GPL(CO)
SB(14/09/2021)