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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2021

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.Nos.2097 & 2098 of 2018 &
CMP.Nos.16241 & 16242 of 2018

New India Assurance Co. Ltd.,
Obli Towers, No.594, TP Road,
RS Puram, Coimbatore

...Appellant in CMA.2097 of 18/
2nd Respondent in MCOP.55/2012

New India Assurance Co.Ltd.,
Divisional Office, Big Street,
Tiruvannamalai-606 601

...Appellant in CMA.No.2098 of 2018/
2nd Respondent in MCOP.No.98/2013

Vs

1.Vellaiammal
2.Manimekalai
3.Minor Sathiya
4.Minor Saranya
5.Minor Sangeetha
Sandasa Nadar(died)
6.Angammal

(Minors 3 to 5 represented
by their mother and NF 1st
respondent herein)

... Respondents 1 to 6 in CMA.No.2097 of 2018/
Petitioner in MCOP.55 of 2012

1.Thangarasu

... 1st Respondent in CMA.No.2098 of 2018
and Petitioner in MCOP.98/2013

Sakthivel

.. 7th Respondent in CMA.No.2097 of 2018 &
2nd Respondent in CMA.No.2098 of 2018
and 1st Respondent in both MCOPs

COMMON PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, against the Judgments and Decrees in MCOP.Nos.55 of 2012 dated 13.08.2014 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Kallakurichi and in



MCOP.No.98 of 2013 dated 27.06.2014 on the file of the Motor Accident Claims Tribunal, III Additional District Court, Kallakurichi.

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For Appellant in both CMAs.: Mr.M.Krishnamoorthy

COMMON JUDGMENT

These appeals have been filed by the Insurance Company challenging its liability to pay compensation under the impugned award dated 13.08.2014 passed by the Motor Accident Claims Tribunal, Subordinate Judge, Kallakurichi in MCOP.Nos.55 of 2012 and the impugned award dated 27.06.2014 passed by the Motor Accident Claims Tribunal, III Additional District Court, Kallakurichi in MCOP.No.98 of 2013.

2. The Appellant Insurance Company has challenged the respective impugned awards only on the ground that the driver of the insured vehicle did not possess a badge for driving a commercial vehicle. However, as seen from the evidence available on record, the driver of the insured vehicle was possessing a LMV driving license, but he did not possess only a badge for driving a commercial vehicle.

3. The law is now well settled by the decision of the Hon'ble Supreme Court in the case of Mukund Dewangan vs. Oriental Insurance Company Limited reported in 2017 SCC Online SC 788, wherein the Hon'ble Supreme Court has held that the badge is not required for the purpose of claiming compensation under section 166 of the Motor Vehicles Act and it is sufficient for the claimants to claim compensation under section 166 of the Motor Vehicles Act, if the driver of the insured vehicle holds a LMV license and if the weight of the commercial vehicle is less than 7500 kgs.

4. Since the law is well settled by the Hon'ble Supreme Court, there is no merit in these appeals. Accordingly, these appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

5. The Appellant Insurance Company is directed to deposit the amount awarded by the Tribunal, after deducting the amount already deposited if any, together with interest from the date of claim till the date of deposit to the credit of MCOP.Nos.55 of 2012 & 98 of 2013 and costs within a period of four weeks from the date of receipt of a copy of this common judgment. On such deposit being made, the Tribunal shall transfer the



respective share of award amount lying to the credit of MCOP.No.55 of 2012 to the bank account of the first, second and sixth respondents/claimants in CMA.No.2097 of 2018 and also transfer the amount lying to the credit of MCOP.No.98 of 2013 to the bank account of the first respondent/claimant in CMA.No.2098 of 2018 through RTGS within a period of one week thereafter. Since the third, fourth and fifth Respondents/claimants in CMA.No.2097 of 2018 are minors, their respective share of award amount shall be deposited in interest bearing fixed deposit in any one of the Nationalised Banks till they attain the age of majority and the mother/first Respondent in CMA.No.2097 of 2018 is permitted to withdraw the interest once in six months for the welfare of the minors. If the minors attain the age of majority, it is open for them to file a formal petition to declare them as majors.

Sd/-
Assistant Registrar(CS-VII)

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Sub Assistant Registrar

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To

- 1.The Motor Accident Claims Tribunal,
Subordinate Judge, Kallakurichi.
- 2.The Motor Accident Claims Tribunal,
The III Additional District Court,
Kallakurichi.
- 3.The Section Officer,
V.R.Section, High Court of Madras.

C.M.A.Nos.2097 & 2098 of 2018

AK(CO)
CB(22/11/2021)