



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No. 3537 of 2017

The Manager,
Cholamandalam MS General Insurance Company Limited,
2nd Floor, K.K.Tower, Vaishnavi Nagar,
Next to Dharga Lake, Bangalore Main Road,
Hosur- 635 109. ..Appellant/2nd Respondent

Vs

1.Latha
2.Minor Revathi
3.Minor Dhanalakshmi
(Respondents 2 & 3 minors
Respondent Rep by mother & NF 1st Respondent)
.. Respondents 1 to 3 / Petitioners
4.Chennakesavan ... 4th Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P. No.892 of 2013 dated 06.10.2015 on the file of the Motor Accident Claims Tribunal, Special District Court, Krishnagiri.

For Petitioner : Mr.M.B.Raghavan

For RR 1 to 3 : Mr.M.Sivakumar

For R4 : No such person

J U D G M E N T

This Civil Miscellaneous Appeal is filed challenging the liability fixed by the Tribunal.

2. The learned counsel for the appellant/Insurance



Company submitted that the Tribunal has passed the order fixing the liability on the Insurance Company. The driver of the vehicle who drove the TATA ACE bearing Registration No.KA-51-A-7666 did not possess the Badge license with an endorsement in his license. Further, the law has been fairly settled by the Apex Court in the case of Mukund Dewangan v. Oriental Insurance Company Limited, reported in [2017 (2) TNMAC 145] : [2017 ACJ 2011] wherein, it was held that in the case of the unladen vehicle the weight below 7500 kilograms, the driver need not possess the license with Badge endorsement. Therefore, the learned counsel fairly submitted that the issue is no more res integra due to the law laid down by the Apex Court.

3. Per contra, the learned counsel appearing for the contesting respondents 1 to 3 also fairly submitted that the law has been settled by the Apex Court and that the issue is no more res integra.

4. In view of the submissions made by the learned counsel for the appellant, I do not find any merit in the present appeal and accordingly, the Civil Miscellaneous Appeal is dismissed. No order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

msm

To

1. The Motor Accident Claims Tribunal,
(Special District Judge), Krishnagiri.

2. The Section Officer,
V.R Section, High Court,
Madras-104.

+1cc to Mr.M.Sivakumar, Advocate, S.R.No.26498

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NRL(CO)
SB(22/10/2021)