



C.M.A.No.3256 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.3256 of 2014

Kowsalya

... Appellant

VS.

1.M.Krishnan
2.The Manager,
ICICI Lombard General Insurance Co. Ltd.,
No.85, Wall tax Road,
Elephant Gate,
Chennai-600 103.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 13.11.2013 passed in M.C.O.P.No.197 of 2009 on the file of the Motor Accident Claims Tribunal cum I Additional District Court, Tiruvallur.

For Appellants : Mr.M.Selvam

For Respondents : Mr.E.Kannadasan[R1]
Mr.B.Siva Kollappan[R2]



C.M.A.No.3256 of 2014

JUDGMENT

The above appeal is filed for the limited relief of directing the second respondent-Insurance Company to compensate the appellant /petitioner and thereafter, recover the same from the owner of the vehicle, the first respondent, since the driver of the first respondent's vehicle by not possessing a valid driving licence has violated the policy conditions.

2. The appellant herein had filed M.C.O.P.No.197 of 2009 on the file of the Motor Accident Claims Tribunal, Tiruvallur claiming compensation for the injuries sustained by him in a road accident on 16.09.2007, which was caused due to the rash and negligent driving by the driver of the TATA ACE bearing Registration No.TN 23 AV 8667 belonging to the first respondent and insured with the second respondent-Insurance Company. The driver of the said TATA ACE did not possess a valid driving licence.

3. The notice from the second respondent-Insurance Company calling upon the first respondent to produce the vehicle particulars and the insurance policy-Ex.R3, evoked no response. Therefore, the Tribunal has



C.M.A.No.3256 of 2014

held that the second respondent-Insurance Company has proved that the first respondent, who was the owner cum driver did not possess a licence and there was a clear violation of the policy conditions. However, the Tribunal below instead of directing the second respondent to compensate the appellant / claimant, who is the third party and thereafter, recover the same from the first respondent, has passed an order directing the first respondent to deposit the amount. Aggrieved by this, the appellant has filed this appeal.

4. In connected M.C.O.P, namely, M.C.O.P.No.198 of 2009, which was also challenged by the claimant therein in C.M.A.No.600 of 2017 before this Court, this Court was pleased to direct the second respondent-Insurance Company to deposit the amount awarded by the Tribunal and thereafter, recover the same from the first respondent-owner of the vehicle.

4. In view of the above, this appeal is allowed to the extent of confirming the compensation awarded by the Tribunal and directing the second respondent-Insurance Company to deposit the amount awarded by



C.M.A.No.3256 of 2014

the Tribunal along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.197 of 2009 on the file of the Motor Accident Claims Tribunal, I Additional District Court, Tiruvallur at the first instance and recover the same from the first respondent/owner of the vehicle. On such deposit, the appellant is permitted to withdraw the award amount along with interest and costs, less the amount if any, already withdrawn. The second respondent is permitted to withdraw the amount, if any deposited by the first respondent and lying in the credit of M.C.O.P.No.197 of 2009 on the file of the Motor Accident Claims Tribunal, I Additional District Court, Tiruvallur towards the amount that is due by the first respondent to the second respondent towards the award amount. No costs.

29.09.2022

Index : Yes/No

Speaking / Non-speaking order

srn

To:

4/6



C.M.A.No.3256 of 2014

1. The Motor Accident Claims Tribunal,
I Additional District Court, Tiruvallur.

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



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C.M.A.No.3256 of 2014

P.T.ASHA, J.,

srn

C.M.A.No.3256 of 2014

29.09.2022