



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.04.2022

CORAM

WEB COPY

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A. No.4819 of 2019
and
C.M.P.No.27728 of 2019

Reliance General Ins. Co.Ltd.,
Sakthi Supermarket, 3rd Floor, No.408,
Perundurai Road,
Erode - 638 011.

... Appellant/3rd Respondent

Vs.

1. S.Salammal	..1 st Respondent/1 st Petitioner
2.S.Vasantha	..2 nd Respondent/2 nd Petitioner
3.S.Dinesh Krishnan	..3 rd Respondent/3 rd Petitioner
4.Minor S.Swathi	..4 th Respondent/4 th Petitioner
rep. by N.G, and mother S.Vasantha	
5.A.Vijay Chandraran	..5 th Respondent/1 st Respondent
6.A.VIjay Anand	...6 th Respondent/2 nd Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the Decree and Judgment dated 29th January, 2019 passed in M.C.O.P.No.623 of 2016 by the Motor Accident Claims Tribunal, I Additional District Court at Tiruppur.

For Appellant : Ms.C.Bhuvanasundari

For Respondents: Mr.K.Myilsamy
for R1 to R4

R5 - Dispensed with vide order dated
27.10.2021

R6 - Served - No Appearance

J U D G M E N T

The Insurance Company has filed this Appeal, challenging the Award passed in M.C.O.P.No.623 of 2016 on the file of the Motor Accident Claims Tribunal, I Additional District Court, Tiruppur.

2. The Appellant / Insurance Company is aggrieved primarily on the ground that despite their proving that the vehicle has



been driven by the person, who did not possess a valid driving license, the entire liability has been mulcted on the Appellant / Insurance Company without ordering for pay and recovery. Though, the Appellant / Insurance Company has questioned the quantum, however serious objections have not been made out.

3. The sixth respondent, who is the owner of the offending vehicle has been served on 28.09.2021 itself, who has chosen not to appear before this Court either in person or through any counsel. Though an order had been made on 27.10.2021 dispensing with the service of notice on R6, it appears that the service of notice at the earlier point in time has not been brought to the notice of the learned Judge. Therefore, considering the fact that a limited relief is sought for, the Appeal is allowed, the order of the Tribunal is modified to the extent that the Appellant / Insurance Company shall deposit the Award amount to the credit of M.C.O.P.No.623 of 2016 and thereafter recover the same from the sixth respondent, the owner of the offending vehicle.

4. Accordingly, this Civil Miscellaneous Appeal is allowed and the order of the Tribunal is modified to the extent that the Appellant / Insurance Company shall deposit the Award amount and can recover the same from the sixth respondent. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ab
To

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

+1 cc to Mr.K.Myilsamy, Advocate Sr.NO. 24173

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PVS (CO)
A.SK(01/06/2022)