



WEB COPY



CMA.No.23 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2023

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

CMA.No.23 of 2023 and
CMP.No.324 of 2023

V.Arunkumar

... Appellant

Vs

1.Chitra
2.Arulmozhi
3.Kanimozhi
4.Udayakumari
5.New India Assurance Company Ltd.,
Nagapattinam Represented by
Branch Manager,
Having his office at Neela South Street,
Nagapattinam Town, Taluk & Munsif

... Respondents

PRAYER:

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 16.03.2020 made in MCOP.No.29 of 2018 on the file of the Motor Accidents Claims Tribunal, Sessions Judge, Fast Track Mahila Court, Nagapattinam.

For Appellant : Mr.V.Bharathidasan

For Respondents
For R5 : Mr.K.Thirunavukarasu



CMA.No.23 of 2023

JUDGMENT

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This appeal is filed against the order and decree dated 16.03.2020 passed in MCOP.No.29 of 2018 on the file of the Motor Accident Claims Tribunal, Nagapattinam. The appeal is filed by the owner of the vehicle challenging the order of the Tribunal directing the fifth respondent / insurance company to satisfy the award and thereafter recover the same from the appellant.

2. The parties are referred to as per their rankings before the Tribunal.

3. The accident, negligence and quantum are not disputed. The appeal is filed against the direction of the Tribunal to pay and recover. As the accident is not disputed the only short point for consideration in this appeal is whether the owner is liable to pay the compensation amount to the fifth respondent / insurance company on satisfaction of the award by it to the claimants.

4. The learned counsel for the appellant submitted that the issue raised in the appeal viz. whether a person with LMV license was competent to drive a transport vehicle or omnibus, the gross vehicle weight of which did not



CMA.No.23 of 2023

exceed 7500 kgs is squarely covered by the judgment of the Hon'ble Supreme

Court of India in the case of ***Mukund Dewangan Vs. Oriental Insurance Co.***

Ltd. reported in ***2017 (2) TN MAC 145 (SC)***. The Hon'ble Supreme Court of India while answering the reference i.e. *“Whether ‘transport vehicle’ and ‘omnibus’ the “gross vehicle weight” of either of which does not exceed 7500 kgs. would be a “light motor vehicle” and also motor-car or tractor or a road roller, “unladen weight” of which does not exceed 7500 kgs. and holder of licence to drive class of “light motor vehicle” as provided in [section 10\(2\)\(d\)](#) would be competent to drive a transport vehicle or omnibus, the “gross vehicle weight” of which does not exceed 7500 kgs. or a motor-car or tractor or road roller, the “unladen weight” of which does not exceed 7500 kgs.?”* held as follows:

(ii) A transport vehicle and omnibus, the gross vehicle weight of either of which does not exceed 7500 kg. would be a light motor vehicle and also motor car or tractor or a road roller, ‘unladen weight’ of which does not exceed 7500 kg. and holder of a driving licence to drive class of “light motor vehicle” as provided in [section 10\(2\)\(d\)](#) is competent to drive a transport vehicle or omnibus, the gross vehicle weight of which does not exceed 7500 kg. or a motor car or tractor or road-roller, the “unladen weight” of which does not exceed



CMA.No.23 of 2023

7500 kg. That is to say, no separate endorsement on the licence is required to drive a transport vehicle of light motor vehicle class as enumerated above. A licence issued under [section 10\(2\)\(d\)](#) continues to be valid after [Amendment Act 54/1994](#) and 28.3.2001 in the form.

(iv) The effect of amendment of Form 4 by insertion of “transport vehicle” is related only to the categories which were substituted in the year 1994 and the procedure to obtain driving licence for transport vehicle of class of “light motor vehicle” continues to be the same as it was and has not been changed and there is no requirement to obtain separate endorsement to drive transport vehicle, and if a driver is holding licence to drive light motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect.

5. In the light of the judgment of the Hon'ble Supreme Court of India, the contention of the appellant is accepted. The appeal is allowed and clause (5) of the award of the Tribunal is set aside.

6. The learned counsel for the appellant submits that the appellant has made the conditional deposit of Rs.25,000/- at the time of filing of the appeal. The appellant is therefore permitted to withdraw Rs.25,000/- deposited by him under proviso (1) of Section 173 of Motor Vehicles Act.



CMA.No.23 of 2023

7. In the result, this appeal stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

26.04.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order
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CMA.No.23 of 2023

N.MALA, J.

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To

- 1.Motor Accident Claims Tribunal
Nagapattinam
(Fast Track Mahila Court, Nagapattinam)
- 2.Branch Manager,
New India Assurance Company Ltd.,
Nagapattinam
Neela South Street,
Nagapattinam Town, Taluk & Munsif

CMA.No.23 of 2023

26.04.2023