



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-06-2026

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THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CMA Nos. 107 and 108 of 2024

AND

CMP NOs. 922 and 930 OF 2024

CMA No.107 of 2024

1. K. Ramesh
S/o.Kaliamoorthy
2. S.A.Palanisamy
3. S/o.Avinashi Gounder

..Appellant(s)

Vs

1. Palanivel
S/o. Rangasaamy
2. Clara Mary
W/o. Palanivel
3. United India Insurance Company Ltd
342-A, Post Office Street, NH Road,
Avinashi-641 654.

..Respondent(s)

CMA No. 108 of 2024

1. K. Ramesh
S/o. Kaliamoorthy
2. S.A.Palanisamy
S/o. Avinashi Gounder

..Appellant(s)

Vs

1. Palanivel



S/o. Rangasaamy
2. United India Insurance Company Ltd
342-A, Post Office Street, NH Road,
Avinashi-641 654.

..Respondent(s)

CMA No. 107 of 2024

To set aside the order of right given to the insurer to recover amount from the appellants in the Common Judgment and decree dt. 01.07.2021 made in MCOP No.533/2012, on the file of Special Motor Accident Claims Tribunal at Tiruppur and to fix the liability is to be joint and several of the owner, driver and insurer by allowing appeal

CMA No. 108 of 2024

To set aside the order of right given to the insurer to recover amount from the appellants in the Common Judgment and decree dt. 01.07.2021 made in MCOP No.535/2012, on the file of Special Motor Accident Claims Tribunal at Tiruppur and to fix the liability is to be joint and several of the owner, driver and insurer by allowing appeal

in both CMAs

For Appellant(s): Mr.Ma.P.Thangavel
B.Devagi Thangavel
M.Lokesh

For Respondent(s): Ms.B.Dharani for
Mr.K.Myilsamy
R.Dilli Kumar
For R1 And R2
M/s.R.Sree Vidhya
R.Nithish Kumar
For R3



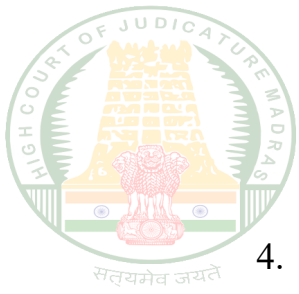
Common Judgment

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Since the issue involved in both the appeals is common, they are taken up together, heard and disposed of by this common judgement.

2. The respondents 1 and 2 in CMA No.107 of 2024 and the 1st respondent in CMA No.108 of 2024 filed the claim petitions on the ground that on 06.09.2011 at about 4.45 p.m, Palanivel and his son Selvadayanand, were travelling on a two wheeler in Avinashi main road from west to east and at that time, the offending vehicle viz., Mahindra Pickup Van was driven in a rash and negligent manner and it hit the two wheeler. As a result of which, Palanivel sustained grievous injuries and his son Selvadayanand died in the accident. An FIR came to be registered in Crime 2048 of 2011 against the driver of the offending vehicle. It is under these circumstances, MCOP No.533 of 2012 came to be filed by the parents of the deceased Selvadayanand and MCOP No.535 of 2012 came to be filed by Palanivel, who had also sustained injuries in the accident.

3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the offending vehicle.



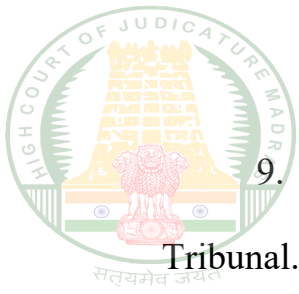
4. Having rendered such a finding, the Tribunal awarded a total compensation of Rs.5,75,300/- in M.C.O.P. No.533 of 2012, together with interest at the rate of 7.5% per annum. Insofar as M.C.O.P. No.535 of 2012 is concerned, the Tribunal awarded a total compensation of Rs.3,51,425/-, together with interest at the rate of 7.5% per annum.

5. The Tribunal after awarding the above compensation found that the driver of the offending vehicle was not possessing a valid license and therefore, applied the principle of “pay and recover”.

6. The Appellants, who are the driver and owner of the offending vehicle, have filed these appeals questioning the award passed by the Tribunal applying the principle of “pay and recover”.

7. Heard Mr.Ma.P.Thangavel, learned counsel for appellants and Ms.B.Dharani, learned counsel for respondents 1 and 2 and Mrs.R.Sreevidhya, learned counsel for the 3rd respondent.

8. This Court carefully considered the submissions made on either side and the materials available on record.



9. This Court also carefully went through the award passed by the Tribunal.

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10. It is not necessary for this Court to go into the question of negligence or the quantum of compensation fixed and it will suffice to see if the award passed by the Tribunal applying the principle of pay and recover is in accordance with law.

11. The Tribunal has rendered a finding to the effect that as per Exs.R2 and R3, the driver of the offending vehicle possessed a Light Motor Vehicle (LMV) license only with effect from 18.07.2012 and that as on the date of accident, the driver did not possess a valid license to drive the vehicle and therefore, there was a policy violation which entails applying the principle of pay and recover.

12. This Court has carefully went through the EXs.R2 and R3. Ex.R2, is the driving license. The driving license has been issued in the name of the 1st appellant wherein he has been authorised to drive Light Motor Vehicle and the date of issuance was on 25.05.2010. Ex.R3 is the RC Book which makes it clear that the unladen weight of the vehicle was 1830 Kgs and the class of vehicle was Light Goods vehicle.



13. The issue involved is no longer *res integra* and this Court can straight away take note of the recent judgement of the Supreme Court in ***Sunita and others Vs. United India Insurance Co. Ltd reported in 2026 (1) TNMAC 1 (SC)*** and the relevant portion is extracted hereunder:-

*10. The findings of the Courts below reveal that the driver of the vehicle involved in the accident was holding a valid license to drive a Light Motor Vehicle (LMV). However, in fact, the vehicle in question is a commercial one. We agree with the view taken by the High Court, holding that no endorsement was required to drive a commercial vehicle of the type in question, by the driver who possesses a license to drive a Light Motor Vehicle (LMV). In the present case, the offending vehicle was TATA 407 Truck, having a gross total weight of around 4995 Kg., which does not exceed 7500 Kg. We must advert to the recent finding of this Court laid down by the Constitutional Bench in *Bajaj Alliance General Insurance Co. Ltd. v. Rambha Devi*⁶, wherein view taken by the three-Judge Bench in *Mukund Dewangan (Supra)*, was affirmed while observing that:*

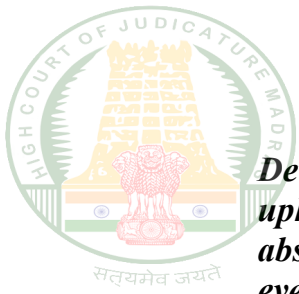
“181. Our conclusions following the above discussion are as under:

181.1. A driver holding a licence for light motor vehicle (LMV) class, under Section 10(2)(d) for vehicles with a gross vehicle weight under 7500 kg, is permitted to operate a “transport vehicle” without needing additional authorisation under Section 10(2)(e) of the MV Act specifically for the “transport vehicle” class. For licensing purposes, LMVs and transport vehicles are not entirely separate classes. An overlap exists between the two. The special eligibility requirements will however continue to apply for, inter alia, e-carts, e-rickshaws, and vehicles carrying hazardous goods.

181.2. The second part of Section 3(1), which emphasises the necessity of a specific requirement to drive a “transport vehicle”, does not supersede the definition of LMV provided in Section 2(21) of the MV Act.

181.3. The additional eligibility criteria specified in the MV Act and the MV Rules generally for driving “transport vehicles” would apply only to those intending to operate vehicles with gross vehicle weight exceeding 7500 kg i.e. “medium goods vehicle”, “medium passenger vehicle”, “heavy goods vehicle” and “heavy passenger vehicle”.

*181.4. The decision in *Mukund Dewangan (2017)* [Mukund*



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Dewangan v. Oriental Insurance Co. Ltd., (2017) 14 SCC 663] is upheld but for reasons as explained by us in this judgment. In the absence of any obtrusive omission, the decision is not per incuriam, even if certain provisions of the MV Act and the MV Rules were not considered in the said judgment.”

(emphasis supplied)

Thus, in our considered view, in the present case, although the offending vehicle is a commercial one and the driver of the said vehicle at the time of accident possessed a license to only drive a Light Motor Vehicle (LMV) and, considering the gross weight of the vehicle in question is not in excess of 7500 Kg., the driver can be said to be holding a valid license to drive the same.

14. In the light of the above judgement, it can be seen that the driver of the offending vehicle was holding a valid license to drive a Light Motor Vehicle and at the time of accident that took place on 06.09.2011, the gross weight of the vehicle in question is not in excess of 7500 Kgs and the actual weight as seen from the RC Book, is 1830 Kgs. In view of the same, although the offending vehicle was a commercial one, the driver of the said vehicle at the time of accident possessed a license for Light Motor vehicle and therefore, the driver can be said to have been holding a valid license to drive the said vehicle.

15. In the light of the above finding, the award passed by the Tribunal by applying the principal of “pay and recover”, requires the interference of this Court. Accordingly, the said finding is hereby set-aside. The compensation amount shall be payable only by the 3rd respondent insurance company to the claimants and it cannot be recovered from the Appellants. Consequently, the sum of Rs,25,000/- that was deposited at the time of filing of the appeals shall



be refunded to the appellants along with the accrued interest.

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16. In the result, both the Civil Miscellaneous Appeals are allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

30-06-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

The Special Motor Accident Claims Tribunal at Tiruppur



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CMA Nos. 107 and 108 of 2



N.ANAND VENKATESH J.

RKA

**CMA Nos. 107 and 108 of 2024
AND
CMP NOs. 922 and 930 OF 2024**

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