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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

CORAM :

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.M.A.NO.497 OF 2022

AND

C.M.P.NO.3656 OF 2022

The New India Assurance Company Limited,  
No.128A, Thiru.Vi.Ka.Street,  
Villupuram

...Appellant/  
2<sup>nd</sup> Respondent

Vs.

1. Rani

... 1<sup>st</sup> Respondent/1<sup>st</sup> Petitioner

2. Muniyan

... 2<sup>nd</sup> Respondent/2<sup>nd</sup> Petitioner

3. Minor Meena

... 3<sup>rd</sup> Respondent/3<sup>rd</sup> Petitioner

4. Minor Nehru

Minors are represented by their natural  
guardian/mother Rani, the first respondent herein.

... 4<sup>th</sup> Respondent/4<sup>th</sup> Petitioner

5. Parthasarathy

... 5<sup>th</sup> Respondent/1<sup>st</sup> Respondent

Prayer:-

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 30.11.2020 made in M.C.O.P.No.208 of 2016 on the file of the Motor Accident Claims Tribunal, Special District Court, Villupuram.



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For Appellant : Mr.Dhakshnamoorthy  
For Respondents : Mr.E.C.Ramesh  
1 and 2

## J U D G M E N T

The second respondent-Insurance Company before the Tribunal has filed the appeal, challenging the Award passed by the Motor Accident Claims Tribunal, Special District Court, Villupuram on the ground that despite there being a violation of the policy conditions, the learned Judge had not ordered pay and recovery against the fifth respondent/owner of the offending vehicle.

2. Considering the limited scope, I am not extracting the facts of the case in extenso. The fifth respondent owner of the vehicle insured with the appellant though served have not entered appearance through counsel nor appeared in person.

3. Mr.Dhakshnamoorthy, learned counsel appearing for the appellant-Insurance Company would submit that on a perusal of Ex.A8-Motor Vehicle Inspection Report, they had come to know that the driver of the offending vehicle had not produced his driving licence. Therefore, they had addressed the letters to the first respondent as well as the authorities to give the details of the driving licence. However, there has been no response to their attempts. The Police Authorities have sent a reply on 09.01.2017 and 06.02.2017 stating that they are unable to produce the documents, since the matter is under enquiry. However, even thereafter, the driving licence of the driver of the fifth respondent's vehicle has not been produced. Ex.P18 would show that the fifth respondent has not produced the driving licence of his vehicle. Further, it is also seen that 3 people were travelling in the motorcycle. Therefore, there is a clear case of the violation of the policy conditions as also the provisions of the Motor Vehicles Act. The Tribunal has not taken into account the above factors and has simply directed the appellant-Insurance Company to pay the compensation amount.

4. As rightly pointed out by the learned counsel for the appellant, since it is a violation of the policy conditions and taking into account the judgment reported in (2003) 2 SCC 223 (New India Assurance Company Ltd -vs- Asha Rani and Others), the impugned Award is modified by stating that the appellant-Insurance Company shall pay the compensation to the claimants and recover the same from the fifth respondent herein being owner of the vehicle. In other respects, the Award of the



Tribunal is hereby confirmed. Accordingly, the Civil Miscellaneous Appeal is allowed to the above extent. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

srn

To

1. The Special District Judge, Villupuram.
2. The Section Officer, V.R.Section, High Court, Madras.

+1cc to Mr.Dhakshnamoorthy, Advocate, S.R.No.37076

C.M.A.No.497 of 2022  
and C.M.P.No.3656 of 2022

MG (CO)  
PM/27/06/2022