



C.M.A.No.3228 of 2017

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 24.04.2024

CORAM:

**THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE**

**C.M.A. No.3228 of 2017 and C.M.P. No.20030 of 2017**

3rd Branch Manager,  
United India Insurance Company Ltd.,  
No.19/1, 1st Floor, Kalpana Complex,  
Cantonment Birds Road,  
Trichy.

.. Appellant

Vs.

1.Manivel

2.Malathi

3.Latha

4.Punitha

5.Uma

6.Selvarasu

.. Respondents

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 03.07.2015 made in M.C.O.P. No.131 of 2014 on the file of the Motor Accidents Claims Tribunal (Additional District and Sessions Judge & Chief Judicial Magistrate), Ariyalur.



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For Appellant : Mr.D.Bhaskaran

For Respondents : R1-R5 - No appearance  
Mr.G.Pugazhenthir for R6

### **JUDGMENT**

The appellant/Insurance Company has filed this appeal, aggrieved by the non-grant of pay and recovery rights to them despite the fact that the rider of the vehicle, insured with the appellant, did not possess a valid driving licence at the time of accident.

2.It is settled law that whenever there is a policy violation committed by the insured, pay and recovery rights is granted to the Insurance Company.

3.In the case on hand, the appellant/Insurance Company is the insurer. Admittedly, as seen from the evidence available on record, the rider of the vehicle, insured with the appellant/Insurance Company was not possessing a valid driving licence. The rider of the vehicle, insured with the appellant/Insurance Company had remained exparte before the Tribunal.



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4. In this appeal, the rider of the vehicle has entered appearance through a learned counsel. On the last hearing date, on 03.04.2024, the learned counsel for the sixth respondent, who is the rider of the vehicle, insured with the appellant/Insurance Company, sought time to produce the driving licence of the rider of the vehicle, insured with the appellant/Insurance Company, who was responsible for the cause of the accident. However, the learned counsel for the sixth respondent is unable to produce the copy of the driving licence of the rider of the motor cycle, insured with the appellant/Insurance Company, despite sufficient opportunity having been given to him by this Court for the production of the same.

5. Therefore, it is clear that the rider of the motor cycle did not possess a valid driving licence at the time of accident. The Tribunal ought to have granted pay and recovery rights to the appellant/Insurance Company since the rider of the motor vehicle, insured with the appellant/Insurance Company, was not possessing a valid driving licence at the time of accident. However, erroneously the Tribunal has failed to grant



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pay and recovery rights to the appellant/Insurance Company. The appellant/Insurance Company has not questioned the quantum of compensation awarded by the Tribunal in this appeal. They have questioned only the non-grant of pay and recovery rights to them under the impugned award.

6.Since the rider of the motor vehicle, insured with the appellant/Insurance Company was not possessing a valid driving licence at the time of accident, pay and recovery rights will have to be granted to the appellant/Insurance Company, which has not been granted erroneously under the impugned award.

7.For the foregoing reasons, this appeal is disposed of by granting pay and recovery rights to the appellant/Insurance Company. Since the appellant/Insurance Company has already deposited the entire award amount in accordance with law to the credit of M.C.O.P. No.131 of 2014 on the file of the Motor Accidents Claims Tribunal (Additional District and Sessions Judge & Chief Judicial Magistrate), Ariyalur, the sixth



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respondent is directed to reimburse the said amount to the appellant/  
Insurance Company, within a period of two months from the date of  
receipt of a copy of this order.

8.The claimants are entitled to withdraw the amount lying to the  
credit of M.C.O.P. No.131 of 2014 on the file of the Motor Accidents  
Claims Tribunal (Additional District and Sessions Judge & Chief  
Judicial Magistrate), Ariyalur, by filing an appropriate application. No  
costs. Consequently, connected petition is closed.

24.04.2024

vga

To

- 1.The Motor Accidents Claims Tribunal,  
Additional District and Sessions Judge &  
Chief Judicial Magistrate, Ariyalur.
- 2.The Section Officer,  
V.R. Section, High Court, Madras.



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**ABDUL QUDDHOSE, J.**

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**24.04.2024**