

C.M.A.(MD) No.614 of 2024

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 31.12.2024**

**CORAM:**

**THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

C.M.A.(MD)No.614 of 2024

and

C.M.P.(MD)No.7671 of 2024

The National Insurance Co. Ltd.,  
(A Government of India undertaking)  
1<sup>st</sup> floor, Rose complex,  
TVM Main road, Pammam,  
Marthandam.  
Appellant

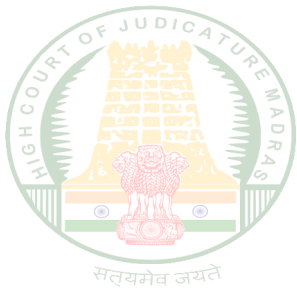
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vs.

A.Christhu Raj.  
Respondent

...

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1973, against judgment and decree dated 06.01.2024 passed in M.C.O.P.No.72 of 2019 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Kuzhithurai.



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For appellant : Mr.N.S.Ramakrishna Dass

For Respondent : Mr.K.N.Thambi

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### **J U D G M E N T**

This Civil Miscellaneous Appeal has been preferred by the Insurance Company against the award dated 06.01.2024 made in M.C.O.P.No.72 of 2019 by the Motor Accidents Claims Tribunal/Sub Court, Kulithalai.

2. Heard the arguments of the learned counsel for the appellant and learned counsel for the respondent. Perused the relevant records.

3. Upon consideration, the Tribunal has granted compensation of Rs.2,60,730/- in favour of the claimant for the injuries suffered due to the accident under the Personal Accident Cover.

4. Admittedly, on 16.10.2018, the claimant, who is the driver-cum-owner of the vehicle, in its goods vehicle bearing registration



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No.TN-74-Q-4734 was carrying asbestos roof with iron rod from Neyyatinkara to Chellakulam for unloading at Chellakulam. When he got down from the vehicle in order to untie the knot in the rope, which was tied over the goods in the vehicle, an iron angle fell down on his head and he sustained injury on his head.

5. The respondent/insurance company has resisted the claim petition filed under Section 166 of the Motor Vehicles Act, 1973 on the ground that the claimant is not a third party and he cannot maintain the claim, as he is the owner-cum-driver of the vehicle.

6. Copy of the insurance policy is marked as Ex.P5. It is a 'liability only policy'. On a careful perusal of the premium details, it reveals that under personal accident cover for owner, an amount of Rs.100/- was collected as premium. Hence, the Tribunal has rightly granted compensation for the claimant, who is the owner-cum-driver of the vehicle under Personal Accident Cover.

7. Insurance is a form of contract and the parties to the contract are bound by the terms and conditions of the policy.



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Having collected the premium for personal accident of the owner, it shall not lie in the mouth of the Insurance Company that the claimant-owner/driver cannot maintain the insurance claim. Therefore, the insurance company cannot avoid its liability to pay the compensation. Therefore, based on the aforesaid observations and discussions, This Court do not find any good reason to disturb the finding of the Tribunal.

8. In the result,

(i) The Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(ii) The appellant/Insurance Company is directed to deposit the compensation awarded by the Tribunal i.e., Rs.2,60,730/- (less the amount already deposited if any) to the credit of M.C.O.P.No.72 of 2019 on the file of Motor Accidents Claims Tribunal/Sub Court, Kuzhithurai, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimant/respondent is



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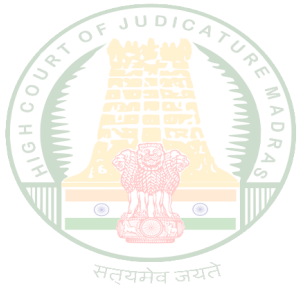
permitted to withdraw the amount awarded by the Tribunal, after  
adjusting the amount, if any already withdrawn, by filing necessary  
application before the Tribunal.

**31.12.2024**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes / No  
apd

To

- 1.The Subordinate Judge,  
The Motor Accidents Claims Tribunal/Subordinate Court,  
Kuzhithurai.
- 2.The Section Officer,  
V.R. Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**R.KALAIMATHI,J**

apd

Pre-delivery order made in  
**C.M.A.(MD) No.614 of 2024**

**31.12.2024**