



C.M.A(MD)No.1098 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1098 of 2023

and

C.M.P.(MD)No.15011 of 2023

The Correspondent,
Sri Krishna Matriculation School,
Uranipuram, Orathanadu Taluk,
Thanjavur District.

... Appellant

Vs.

1.Minor Sureka,
represented by her mother and
Natural Guardian, Priya.

2.The Divisional Manager,
M/s.Cholamandalam General Insurance
Company Limited,
1st Floor, Meena Agencies Upstair,
2661, South Street,
Thanjavur-613 009.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173(1) of Motor Vehicles Act, 1988, against the judgment and decree, dated 01.10.2021, made in M.C.O.P.No.1406 of 2019 on the file of the Motor Accident Claims Tribunal / Special Subordinate Judge, Thanjavur.

For Appellant	: Mr.M.Mohamed Ibram Saibu for M/s.Ajmal Associates
For R1	: No appearance
For R2	: M/s.K.R.Shivashankari



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JUDGMENT

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The owner of the vehicle is the appellant herein. The Tribunal has fixed the liability on the owner of the vehicle and declined to fix the liability on the Insurance Company for the sole reason that the Driver has produced the driving license but the same is not legible.

2. When the appeal was taken up for hearing the owner / appellant has produced the legible copy of the driving license before this Court. On perusing the same, it is seen that the Driver is having LMV license and the same is valid till 04.05.2035. Hence this Court is convinced that the driver of the vehicle is having valid license. Consequently, the liability cannot be fixed on the owner of the vehicle. Since valid license is available and the vehicle is also insured, the Insurance Company is liable to pay and therefore, pay and recovery will not arise.

3. Hence, the order passed by the Tribunal is set aside. The 2nd respondent (Insurance Company) is directed to deposit Rs.3,00,000/- with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. The Tribunal is directed to



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deposit the amount, which the minor child (claimant) is entitled to, in a nationalized bank until the child attains majority. The mother/guardian, is permitted to withdraw the interest amount once in three months. Once the claimant attains majority, the claimant shall withdraw the amount by filing appropriate application before the Tribunal.

4. With the above said observation, the Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

20.02.2024

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

Tmg



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To

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- 1.Motor Accident Claims Tribunal /
Special Subordinate Judge, Thanjavur.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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