



C.M.A.No.3172 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2025

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE DR.JUSTICE A.D.MARIA CLETE**

**C.M.A.No.3172 of 2024
and CMP No.26440 of 2024**

Madhappan

... Appellant

Vs.

- 1.Kanchana W/o Manikandan
- 2.Minor.Jananiyasri D/o Manikandan
- 3.Minor Pugazh S/o Manikandan
- 4.Palaniyammal, W/o Ramalingam
- 5.The Branch Manager
United India Insurance Company Ltd
No.22-B, Sundaram Iyer Street
Dharmapuri Taluk and District
Tamil Nadu 636 701.

... Respondents

Appeal under Section 173 of Motor Vehicles Act against the award passed in
MCOP No.446/2021 dated 08.12.2023 on the file of the Exclusive Motor Accidents
Claims Tribunal, Dharmapuri.



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For Appellant : Mr.K.S.Gowtham
for S.C.Vishwanth
For Respondents : Mr.S.Velmurugan – for RR 1 to 4
Mr.D.Venkatachalam – for R5

J U D G M E N T

(Delivered by R.SURESH KUMAR,J.)

This Civil Miscellaneous Appeal has been directed against the award dated 08.12.2023 passed by the Motor Accidents Claims Tribunal, Dharmapuri in M.C.O.P.No.446 of 2021.

2. On 03.07.2021, when one Manikandan was proceeding in a motorcycle bearing Registration No.TN-29-H-8121 on Dharmapuri-Palacode Road near Meklampatti Hogenakkal Joint Water Pump, he met with an accident with a lorry bearing Registration No.TN-30-S-0088. Resultantly, the said Manikandan sustained multiple injuries and died in the hospital subsequently. Therefore, the legal heirs, who are the claimants of the deceased, filed the said MCOP No.446 of 2021 claiming a compensation of Rs.50,00,000/-.

3. The said MCOP was tried and decided by the Motor Accidents Claims Tribunal through the impugned order dated 08.12.2023, whereby the Tribunal passed an award for a sum of Rs.30,31,400/-payable to the claimants by the insurance company. However, after making the payment, the same can be



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recovered from the first respondent ie., the owner of the vehicle by filing an execution petition based on the award itself without any separate proceedings.

4. Therefore, challenging the said award of pay and recovery from the first respondent before the Tribunal, who is the owner of the vehicle, the first respondent has filed the present civil miscellaneous appeal.

5. Heard Mr.K.S.Gowtham, learned counsel for the appellant, Mr.S.Velmurugan, learned counsel for the respondents 1 to 4 and Mr.D.Venkatachalam, learned counsel for the 5th respondent / insurance company.

6. The only question to be decided in this appeal is as to whether the order of pay and recovery ordered by the Tribunal through the impugned award is justifiable or not.

7. In this context, if we look at the impugned award, in Paragraph No.10, the learned Judge has recorded saying that through R.W.1, permit copy of the insured lorry has been marked as Ex.R2 and Fitness Certificate has been marked as Ex.R1. As seen from the permit, it expired on the date of accident ie., 05.05.2020. Therefore, it is clear that the insured ie., the owner of the vehicle has committed violation of policy conditions, based on which, even though the claimants are entitled



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to get compensation, it has been awarded to be paid by the insurance company and recovered from the appellant herein, who stood as first respondent before the Tribunal being the owner of the vehicle.

8. In this context, it is brought to our notice by the learned counsel for the appellant that Ex.R1, Fitness Certificate dated 09.10.2023, the same has been filed before the Trial Court and marked as document, where the Fitness Certificate renewal from time to time has been mentioned. It is also pointed out that the Fitness Certificate starting from 06.05.2019 expired on 05.05.2020. Thereafter, between 05.05.2020 and 08.03.2021, due to COVID-19 period, immediately the Fitness Certificate could not be renewed and that kind of exemption also had been given by the concerned authorities during the COVID-19 period.

9. Thereafter, the Fitness Certificate has been further renewed from 08.03.2021, which expired only on 07.03.2022, whereas the accident had taken place only on 03.07.2021. Therefore, on the date of accident, the Fitness Certificate since has been renewed from 08.03.2021 to 07.03.2022, the vehicle was having valid Fitness Certificate and hence the finding given in this regard by the learned Judge is erroneous, he contended.

10. This position cannot be controverted by the learned counsel appearing for the insurance company also, in view of Ex.R1 which establishes that during the



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relevant point of time ie., between 08.03.2021 to 07.03.2022 since the Fitness Certificate has already been renewed and during this period only, the accident had taken place. Therefore on 03.07.2021 ie., the date of accident the vehicle involved was having the valid Fitness Certificate and it cannot be construed as violation of policy conditions, as has been found and held by the learned Judge in the impugned award.

11. Therefore, we do not have any hesitation to hold that the vehicle involved was having valid Fitness Certificate during the relevant point of time especially on the date of accident ie., 03.07.2021. Therefore, the compensation payable to the family of the deceased ie., the claimants, as directed by the Tribunal through the impugned Award has to be paid only by the Insurance Company and the same cannot be recovered from the appellant herein, who is the owner of the vehicle.

12. In that view of the matter, this Civil Miscellaneous Appeal is allowed to the following extent. The portion of the award dated 08.12.2023 passed by the Exclusive Motor Accident Claims Tribunal, Dharmapuri wherein the Insurance Company was directed to pay the compensation to the claimants and thereafter recover the same from the owner of the vehicle alone is set aside. In all other respects, the award remains intact.



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WEB COPY 13. Resultantly, this appeal is allowed in the terms as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.) (A.D.M.C.,J.)
14.02.2025

NCS : Yes/No
Index : Yes/No
KST

To

Exclusive Motor Accidents Claims Tribunal,
Dharmapuri.



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R.SURESH KUMAR, J.

AND

A.D.MARIA CLETE, J.

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