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CMA No. 2950 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 2950 of 2024

1. Buealah Malarvizhi
W/o.Late George William, res at Door
No.4, William Cottage, Sri Balaji
Nagar, Villarasampatti Nall Road,
Erode

2.Beno William
S/o.Late George William, res at Door
No.4, William Cottage, Sri Balaji
Nagar, Villarasampatti Nall Road,
Erode Arputhamani (Died)

Appellant(s)

Vs

1. Ramasamy
S/o.Maran, Door NO.45,
Kandampalayam, K.S.Palayam,
Perundurai, Erode District

2.Reliance General Insurance Co. Ltd.
Having office at Sakthi Super Market,
3rd floor, 408, Perundurai Road, Erode

Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, prays to set aside the order of contributory negligence fixed upon the deceased Late George William and order the 2nd Respondent/Insurance Company to pay and Recover the award compensation from the 1st respondent and for enhancement of the compensation amount awarded in the order dt. 21.08.2024 made in MCOP No.217/2019 on the file of the Motor Accident



Claims Tribunal, Perundurai by allowing this CMA.

For Appellant(s): Mr.M.Guruprasad

For Respondent(s): R1 - No Appearance
Mr.P.Suresh Srinivasan For R2

JUDGMENT

The appellants have filed this appeal, to set aside the order of contributory negligence fixed upon the deceased Late George William and order the 2nd Respondent/Insurance Company to pay and Recover the award compensation from the 1st respondent and for enhancement of the compensation amount awarded in the order dt. 21.08.2024 made in MCOP No.217/2019 on the file of the Motor Accident Claims Tribunal, Perundurai.

2. Considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs.22,04,000/- as compensation, directing the 1st respondent to pay the said amount to the appellants, along with interest at the rate of 7.5% per annum from the date of the petition till the date of realization (excluding the period of dismissal for default, if any).

3.The learned counsel for the claimant submitted that, while fixing liability, the Tribunal directed the first respondent/owner to pay the entire compensation and exonerated the second respondent/insurance company on the ground that the first respondent did not possess a valid driving licence to ride



the two-wheeler at the time of the accident.

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4. Placing reliance on the ratio laid down in *2025 (1) TN MAC 686 (CMA No. 2531 of 2022)*, *Malliga and others Vs. E.Manimegalai and others*, the learned counsel for the claimants contended that the claimants have no control over the policy conditions and that there was no violation attributable to the claimants between the insured and the insurer. Therefore, it was prayed that the second respondent/insurance company be directed to pay the compensation in the first instance and be permitted to recover the same from the first respondent/owner under the “pay and recovery” principle.

5. By way of reply, the learned counsel for the insurance company relied upon the ratio laid down in 2020 SCC OnLine Mad 15047, and submitted that in case of violation of policy conditions, the insurance company is not liable to pay the compensation.

6. On considering the latest judgments of this Court, which clearly clarify that the claimants, being a third party, has no control over the policy conditions, this Court finds that the submissions made on the side of the appellants are sustainable. Accordingly, the second respondent/insurance company is directed to pay the awarded compensation in the first instance and is permitted to



recover the same from the first respondent/owner.

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7. Though paper publication was effected in respect of the first respondent, none appeared on his behalf. The learned counsel for the second respondent appeared and advanced submissions.

8. In view of the above, the award passed by the Tribunal is confirmed with the modification regarding liability. The second respondent/insurance company shall pay the compensation and recover the same from the first respondent/owner under the pay and recovery principle.

9. Accordingly, the appeal is partly allowed. There shall be no order as to costs.

29-08-2025

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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CMA No. 2950 of 2024



To

1.Ramasamy

S/o.Maran, Door NO.45,
Kandampalayam, K.S.Palayam,
Perundurai, Erode District

2.Reliance General Insurance Co. Ltd.
Having office at Sakthi Super Market,
3rd floor, 408, Perundurai Road, Erode.

3.The Motor Accident Claims Tribunal,
Perundurai.

4.The Section Officer, VR Section,
High Court of Madras.



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T.V.THAMILSELVI J.
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