BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.09.2025

Pronounced on : 13.11.2025

CORAM:

THE HONOURABLE MS.JUSTICE R.POORNIMA

C.M.A.(MD)No. 1079 of 2013
and
M.P(MD)No.4 of 2013

National Insurance Company Limited
Division No.4,
No.169, Anna Salai
Chennai -2 ... Appellant/ 4th Respondent

Vs.

1.Ravi ...1st respondent / Petitioner

2.Anthonysamy

3. Sherif Express Travels,
Door no. 551, Anna Salai,
Chennai.

4. United India Insurance Company,
Tuticorin.
... Respondents 2 to 4 /Respondents 1 to 3

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside or modify the fair and decretal order dated 13.07.2011 made in M.C.O.P. No. 81 of 2004 on the file of the Motor Accidents Claims Tribunal / Subordinate Court, Tuticorin and allow this Civil Miscellaneous Appeal.

For Appellants : Mr.J.S.Murali

For Respondents : Mr.S.Kadarkarai – for R1
No appearance – for R3
Dispensed with – for R2 & R4

JUDGMENT

This Civil Miscellaneous Appeal has been preferred against the fair order and decretal order, dated 13.07.2011 passed in M.C.O.P. No.81 of 2004 by the Motor Accident Claims Tribunal / Subordinate Court, Tuticorin.

2. **Brief facts of the petition filed by the claimants before the Tribunal are as follows**:-

(i) On 29.08.2001, at about 7.30pm, the petitioner along with his son-in-law as a pillion rider were travelled in the petitioner's motorcycle (TVS suzuki) bearing registration No.TN 69 Y 8649, which was driven by the petitioner in a cautious manner from east to west on the railway bridge next to TTPS roundana and while the petitioner was trying to overtake a town bus, at that time, the 1st respondent who drove a motorcycle bearing registration No.TN 07 K 3974, belonged to the 2nd respondent, in a rash and negligent manner from the opposite direction and dashed against the petitioner vehicle. Due to the impact the petitioner and his son-in-law were fell down and sustained grievous injuries. The petitioner sustained injuries on the left side of his head, upper portion of the right leg, etc. Immediately, both were taken to the Government Hospital, Tuticorin for treatment. The petitioner's son-in-law sustained simple injuries, he was not admitted as inpatient. The petitioner was admitted in the hospital.

(ii) At the time of the accident the petitioner was working as a contractor in the port and earned Rs.300/- per day. Due to the accident the petitioner was suffered permanent disability. The petitioner filed claim petition for seeking compensation of Rs.2,50,000/-.

3. Before the Tribunal the 1st respondent / driver and 2nd respondent / owner of the vehicle remained ex-parte. The 3rd respondent filed counter statement denying the manner of the accident as alleged in the claim petition and disputing their liability to pay compensation. The

2nd respondent vehicle was not insured with this respondent and the same was insured with National Insurance Co. Ltd., in Chennai branch, therefore this respondent is not liable to pay any compensation. Further contended that the rider of the motorcycle did not possess a valid driving license.

4. The 4th respondent filed a counter by denying the manner of the accident as alleged in the claim petition and disputing their liability to pay compensation contending that the accident occurred due to carelessness and negligent act of 1st respondent, seeking compensation against this respondent is barred. Further it was contended that the petitioner's age, income, occupation were disputed. The petitioner must prove the manner of the accident, the 1st respondent did not possesses valid driving license. Hence, prayed to dismiss the petition.

5. During trail, on the side of the petitioner, P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P12 were marked. On the side of the respondents, R.W.1 and R.W.2 were examined and Ex.R1 to Ex.R9 were marked.

6. Upon consideration of the materials available on record, both oral and documentary, the Tribunal awarded a sum of Rs.1,45,354/- and directed the respondents 1, 2 and 4 to pay the award amount jointly and severally along with interest @ 7.5% pa from the date of petition till the rate of realization. The petition is dismissed as against 3rd respondent.

7. Aggrieved by the said award, the present Civil Miscellaneous Appeal has been filed by the appellant / 4th respondent / National Insurance Company on the ground that the 2nd respondent / owner of the vehicle allowed the 1st respondent/driver to ride the vehicle without driving license, which was clearly established through oral and documentary evidence, but the Tribunal failed to fix the liability on the owner of the vehicle.

8. Heard the learned counsel appearing on either side and perused the materials available on record.

9. Now, this Court has to decide the following points for consideration :

(i) whether the 1st respondent was holding valid driving license at the time of accident ?

(ii) whether the order of the Tribunal is sustainable or liable to be set aside?

11.Point Nos.1 & 2:

Though the insurance company, has raised several grounds in the Civil Miscellaneous Appeal, the principal contention of the appellant is that the driver of the offending vehicle did not possess a valid driving license at the time of accident. However, the learned Tribunal fastened the liability on the insurance without considering the alleged violation of policy condition.

12. Before the Tribunal, the owner and the driver of the offending vehicle did not appear and set ex-parte. On behalf of the Insurance company the Senior Assistant of the appellant was examined as R.W.1. He clearly deposed that the driver of the offending vehicle bearing Registration No.TN 07 K 3974 did not possess a valid driving license at the time of the accident. He further deposed that the letter were sent on 28.11.2008 to the driver / 1st respondent calling upon them to

produce the driving license under Ex.R2, which was returned as refused. On the same day, a letter was addressed to the owner of the vehicle under Ex.R4 calling upon them to produce the driving license which was received by him under Ex.R5, acknowledgement card. Despite such notice, they failed to produce the same. Thereafter a legal notice was also issued through a lawyer under Ex.R6, addressed to the 1st respondent/ driver as well as the owner, which was returned by the 1st respondent/driver and the owner of the vehicle, but there was no response or compliance or their part. The above evidence clearly established that the owner and the driver of the offending vehicle violated the terms of condition of the policy. Hence the insurance company contended that it is not liable to pay the compensation. Further the insurance company examined one Madasamy, Investigating Officer of the insurance company, who deposed that during his investigation, it was confirmed that the driver of the offending vehicle did not possess a valid driving license at the time of accident, thereby substantiating the breach of policy condition.

13. On perusal of above records and the investigation report filed by RW2, it is evident that the insurance company had taken efforts

to obtain the driving license from the driver and the owner of the offending vehicle. However, even after receipt of the letters and advocate notice, they failed to produce the driving license of the driver of the offending vehicle. Hence, this Court finds that the driver of the offending vehicle did not possess a valid driving license at the time of accident thereby a constituting a clear violation of policy condition. However, the Tribunal erred in concluding that the insurance company had failed to prove that the driver of the offending vehicle did not possess valid license and violated the policy condition. It is clearly proved that the policy was in force at the time of accident. Nevertheless the Tribunal fastened the entire liability upon the insurance company alone which in the opinion of this Court is not proper and liable to be modified. Accordingly, this Court directs the insurance company to pay the compensation to the claimant first and thereafter, recover the same from the owner of the vehicle /third respondent herein.

14. As far as quantum of compensation is concerned, this Court find no reason to interfere. The compensation awarded by the Tribunal is just, proper and require no modification. Point Nos.1 and 2 are answered accordingly.

15. In the result, the Civil Miscellaneous Appeal is **partly allowed.** However, in view of the fact that the insurance company has established that the driver was not holding valid driving license at the time of the accident, it is open to the insurance company to pay the award amount and recover it from the owner of the vehicle by executing the award against the owner/third respondent. The appellant/insurance company shall deposit the compensation within a period of eight (8) weeks from today, if not already deposited. On such deposit being made, the claimant is permitted to withdraw the entire amount by filing formal application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

13.11.2025

Index : Yes / No
NCC : Yes / No

RM

To
1. The Subordinate Court,
Motor Accident Claims Tribunal
Tuticorin.

Copy to
1.The Section Officer,
ER/VR Section, Madurai Bench of Madras High Court,
Madurai.

R.POORNIMA, J.

RM

Judgment in
C.M.A.(MD)No.1079 of 2013

13.11.2025