



C.M.A(MD)No.1111 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 12.09.2025

Pronounced on : 24.09.2025

CORAM:

THE HONOURABLE MS.JUSTICE R.POORNIMA

C.M.A.(MD)No.1111 of 2013

United India Insurance Company Limited,
through its Branch Manager,
50/1, S.N.High Road, 1st Floor,
Tirunelveli.

... Appellant/ 2nd Respondent

Vs.

1.Minor.Vincent Raj

(Minor 1st respondent rep. by his mother
and guardian Jaya)

...1st respondent / Petitioner

2.Manimegalai

...2nd respondent/ 1st respondent

(2nd respondent remained *ex-parte* before the Tribunal)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988, to set aside the fair and decretal order dated
29.04.2011 made in M.C.O.P.No.379 of 2008 on the file of the



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Additional Subordinate Court, Motor Accident Claims Tribunal,

Tirunelveli and allow this Civil Miscellaneous Appeal.

For Appellant : Mr.J.S.Murali

For Respondents : Mr.K.Sivabalan – for R1

JUDGMENT

The appellant/2nd respondent Insurance company has filed this Civil Miscellaneous Appeal against the fair and decretal order dated 29.04.2011 passed in M.C.O.P.No.379 of 2008 by the learned Additional Subordinate Judge, Motor Accident Claims Tribunal, Tirunelveli.

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

(a) On 17.01.2008 at about 1.00 p.m., the petitioner was walking along with his mother at Senjudar Street, Samathanapuram on the left side mud portion. At that time, a TVS XL Super bearing registration No.TN-72-P-8492 belonging to the first respondent, insured with the second respondent came from the opposite direction in a rash and negligent manner with high speed and hit against the petitioner. As a



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result of which, the petitioner sustained multiple injuries all over the body, in addition to fracture over the skull. Immediately, the petitioner was taken to Sakthi Hospital at Vannarapettai and admitted as inpatient from 17.01.2008 to 23.01.2008 (in the petition, the discharge date was wrongly mentioned as 2.1.2008).

(b) A case has been registered by the Palayamkottai Police station in Crime No.93 of 2008 against the first respondent driver, which is pending before the Judicial Magistrate No.I Court, Tirunelveli.

(c) The petitioner was aged about 6 years, at the time of the accident and he was active. Due to the fracture over the skull, the petitioner was not able to walk without the help of others, and was permanently disabled. The petitioner was a school going student and he was not able to continue his studies in the academic year and his future life became bleak.

(d) The petitioner has claimed a sum of Rs.5,00,000/- towards compensation amount. The 1st respondent vehicle was insured with the 2nd respondent insurance company. Hence, the respondents 1 and 2 are jointly, severally and vicariously liable to pay the compensation to the petitioner.



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3. Brief averments contained in the counter filed by the second respondent are as follows :

(a) It is the bounden duty of the petitioner to prove with strict documentary evidence that the 1st respondent's vehicle was insured with the 2nd respondent and the said vehicle was having a valid fitness certificate on the date of the accident and the rider was having a valid and effective driving licence to drive the vehicle at the time of accident. In the absence of the above proof, the 2nd respondent is not answerable to the claim made by the petitioner.

(b) There is no permanent disability or loss of earning power due to the alleged injuries sustained by the petitioner. So, the claim made under these heads are all not admitted as true.

(c) The amount of compensation claimed by the petitioner under various heads and the total claim made by the petitioner is highly exorbitant and without any basis and hence, the petitioner is not entitled to any claim and prayed for dismissal of the claim petition.

4. During trial, on the side of the petitioner, P.W.1 and P.W.2 were examined and Exs.P1 to P15 were marked. On the side of the



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respondents, R.W.1 and R.W.2 were examined and Ex.R.1 to Ex.R5 were

marked.

5.After hearing all the parties, the Tribunal allowed the claim petition and awarded a sum of Rs.1,05,373/- as compensation. The learned Judge also directed the appellant/2nd respondent-Insurance Company to pay the entire award amount within a period of two months.

6.Aggrieved by the said order, the present Civil Miscellaneous Appeal has been filed by the Insurance Company, who is the 2nd respondent before the Tribunal against the negligence and quantum with the following among other grounds:-

(i) That the Tribunal failed to note that the rider of the two wheeler, who caused the accident had no driving licence at the time of accident and the appellant is not liable to indemnify the owner of the vehicle.

(ii) That the Tribunal had erred in fixing the liability on this appellant. Hence, prayed to set aside the judgment of the trial Court and allow the Civil Miscellaneous Appeal.



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7. Heard the learned counsel on either side and perused the

material available on records.

8. Now, this Court has to decide the following point for consideration:-

(1) whether the accident occurred due to the rash and negligent act of the driver of the 2nd respondent and whether he has possessed a valid license at the time of accident ?

9. Point No.1 :

Ex.P.1 is the FIR in Crime No.93 of 2007 was registered by the Palayamkottai Police Station against the driver of the vehicle under Sections 279 and 338 of IPC. Ex.P4 is the charge sheet filed against the driver of the vehicle by the sub Inspector of police, traffic wing against the driver of the vehicle. Ex.P5 is the judgement passed by the learned judicial magistrate, Thirunalveli, by holding that accused pleaded guilty under section 379, 338 IPC and convicted and sentenced to pay a sum of Rs.1,000/- as fine. Ex.P6 is the Motor Vehicle Inspection report issued by the Motor Vehicle Inspector, opined that the accident was not happened due to the mechanical defect of the vehicle bearing



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Registration No.TN 72 P 8492. The above documents clearly establish that the accident occurred solely to the negligence of the driver of the vehicle.

10. The further defence raised by the appellant was that the rider of the offending vehicle did not possess a valid driving licence. Although the appellant examined two witnesses and produced Exs.R.1 and R.2 and thereby taking all possible steps to substantiate the defence, the Tribunal nevertheless fastened the entire liability on the appellant and directed them to pay the award amount of Rs.1,05,373/- along with interest at the rate of 7.5% per annum which is liable to be set aside

11. According to the learned counsel for the appellant, the appellant has proved that the rider of the two wheeler did not possess valid driving licence through R.W.1, Junior Engineer of Regional Transport Authority and R.W.2, Administrative Officer of 1st Respondent Insurance Company and by marking Ex.R1 a letter issued by the Regional Transport Authority Tirunelveli. The learned counsel further contended that the tribunal erred in holding that based on the evidence of RW1, it could not be concluded that the rider of the two wheeler did



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not possess a valid license, rather it ought to have held that the rider of the two wheeler did not possess a valid driving license, which constitutes a violation of policy conditions and fasten the entire liability upon the owner of the vehicle for payment of compensation

12. The record when perused reveals that before the Tribunal, the owner of the offending vehicle, viz., the 2nd respondent herein remained *ex-parte*.

13. In cases, where a dispute arises regarding the genuineness of the rider's driving licence the same is ordinarily produced by the claimant or it can be proved through the examining the official from the Regional Transport Office.

14. On the side of the Appellant Insurance Company, the Junior Assistant of the Regional Transport Authority was examined as RW1. He categorically stated that as per the record, no license had been issued in the name of Narendran, the rider of the two wheeler in the given address. Further Ex.R1 is the letter issued by Regional Transport Authority, in which it was confirmed that no license had been instituted



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to the said individual. It was however stated that if the particulars of license number was furnished, the details of license holder could be provided.

15. Further, a notice was issued by the Advocate for the insurance company on 20.12.2010 to the owner and the rider, directing them to produce the driving license of the rider of the two wheeler. The postal covers sent to the owner as well as the driver were returned as 'unclaimed'. This establishes that the notice issued by the insurance company was deliberately evaded. Refusal or an endorsement as unclaimed in the postal cover is sufficient to hold that service has been duly effected. The Court below ought to have drawn adverse inference against the owner and rider by holding that they had deliberately avoided, producing the license. However, Tribunal rejected the defence of the insurance company/appellant which is improper.

16. Further the petitioner produced Ex.P.6 Motor vehicle Report wherein in column.7, relating to particulars of driving license it is specifically mentioned that no driving license produced. If a valid driving license had been available, the driver or owner would have



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produced the same. Hence, the appellant has proved that the vehicle was driven by the rider who did not possess a valid driving licence.

17. Driving a vehicle without a valid driving license is a statutory violation under Section 3 r/w. Sec 181 of the Motor Vehicles Act. As per section 3(1) of the Motor Vehicles Act : no person shall drive a motor vehicle in any public place, unless he holds an effective driving license

18. Section 181 of the Motor Vehicles Act : Driving without a valid license punishable with fine and/or imprisonment.

19. In the present case, neither the driver nor the owner of the vehicle produced the license, which is a clear violation of statutory requirement. However as it is proved that the offending vehicle duly insured at the relevant point of time and the claimant being a third party should not be suffer for the act of the driver, this Court hold that the Insurer is liable to satisfy the award amount in the first instance with the liberty to recover the same from insurer.



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20. In such view of the matter, this Civil Miscellaneous

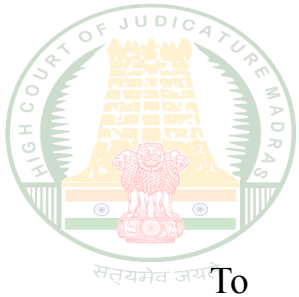
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Appeal is partly allowed. The appellant/Insurance Company is directed to deposit the award amount with accrued interest at the rate of 7.5% per annum and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this Judgment. Further, the Tribunal is directed to deposit the award amount in any one of the Nationalized Banks, as Fixed Deposit under the Cumulative Deposit Scheme till the minor attain the majority and the mother, who is the natural guardian of the minor claimant is permitted to withdraw interest once in three months directly from the Bank for the welfare of the minor. The appellant/Insurance Company is at liberty to recover the amount from the owner of the vehicle in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

24.09.2025

Index : Yes / No
NCC : Yes / No

RM



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To
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1.The Additional Subordinate Court,
Motor Accident Claims Tribunal,
Tirunelveli.

Copy to

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



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R.POORNIMA, J.

RM

Judgment in
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