



C.M.A(MD)No.640 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 17.11.2025

CORAM:

THE HONOURABLE MS.JUSTICE R.POORNIMA

C.M.A.(MD)No.640 of 2010
and
M.P.(MD)No.1 of 2010 and 1 of 2013

The Divisional Manager,
The Divisional Office,
The New India Assurance Company Limited,
Kamarajar Salai, Madurai. ... Appellant/ ^{lind} Respondent

Vs.

1.K.Prabhu ...1st Respondent / Applicant

2.V.Maruthamuthu ...2nd Respondent/1st respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Workman Compensation Act, 1923, against the order made in W.C.No. 172 of 2008, dated 30.12.2008, on the file of the Commissioner for Workmen's Compensation, Madurai.



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For Appellant : Mr.J.S.Murali

For Respondents : Mr.M.Prakash – for R1

No appearance – for R2

JUDGMENT

The appellant/4th respondent Insurance company has filed this Civil Miscellaneous Appeal against the order made in W.C.No.172 of 2008, dated 30.12.2008, on the file of the Commissioner for Workmen's Compensation, Madurai.

2.The parties are referred to herein as per their rank before the Tribunal, for easy reference.

3.The brief case of the claimant is as follows:-

On 18.1.2005, when the appellant is working in the first respondent's auto bearing Registration No. TN 45 A 4068 near Sivagangai Ring Road, at that time, auto dashed against the bus bearing registration No. TN 01 6643 and he claimant had sustained bone fracture and head injuries and he had been taken treatment at Madurai Rajaji Hospital for eight days and then at a private hospital and thus his earning capacity had reduced considerably. At the time of accident, the



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claimant was aged 24 years and working with the first respondent and earned a sum of Rs.2000/- as monthly salary and also got other perks and claimed compensation from the respondents 1 and 2.

4.The first respondent filed a counter and accepted the employment, salary and other aspects. Further he would state that at the time of accident, the claimant had possessed valid driving licence and insured with the second respondent and hence the second respondent is liable to pay the compensation and hence the claim petition has to be dismissed in respect of the first respondent.

5.The second respondent fled a counter and denied the averments regarding employment, salary and other aspects. Further he would state that the claimant had possessed only license to drive light motor vehicle and did not possess badge for driving auto. Hence the first respondent alone is responsible for payment of compensation to the claimant. The claimant has to prove the averments mentioned in his claim petition and prayed for dismissal of the claim petition.

6. During trial, on the side of the petitioner, P.W.1 and P.W.2 were



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examined and Exs.P1 to P9 were marked. On the side of the respondents,
no evidence was adduced and no documents marked.

7.After hearing the parties and perusing the records, the Tribunal fixed the liability on the second respondent and awarded a total sum of Rs.1,11,889/- as compensation to the claimant.

8. Aggrieved by the said order, the present Civil Miscellaneous Appeal has been filed by the appellant Insurance company who is the second respondent insurance company before the Tribunal against the liability fixed on them, with the following among other grounds:-

(i) That the Tribunal is bound to consider that a person holding a driving licence for non-transport vehicle, cannot be permitted to drive the Transport vehicle unless the licence is duly authorizes him to drive transport vehicles, as required under Rule 16 of driving licence.

(ii) That the Tribunal failed to appreciate that a person holding LMV licence is not to authorize to drive the commercial vehicle without the requisite endorsement by the competent Authorities. In the absence of such valid endorsement, the driver was not legally permitted



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to operate the vehicle. Therefore, prayed to set aside the order of the trial Court and allow the Civil Miscellaneous Appeal.

9. Heard the learned counsels appearing for the parties and perused the materials available on record.

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

1. Whether the driver holding a driving licence other than for a Transport vehicle was not authorised to drive the Transport vehicle without obtaining the requisite additional authorisation in Form 6 as mandate under Rule 16 of driving licence to drive transport vehicles ?

2. Whether the order passed by the Tribunal against the appellant /second respondent, is proper or liable to be set aside ?

11. Point Nos.1 & 2 :

In the present case, the quantum of compensation is not under challenge. The only ground raised in the appeal is that the driver of the load auto did not possess a valid license with a requisite



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authorisation in Form 6 as mandate under Rule 16 of driving licence to drive the auto bearing Registration No.TN 45A 4068.The driver of the auto holding only LMV license was not to authorise to drive the commercial vehicle without the requisite endorsement by the competent authorities. Except on this ground the appellant has no grievance with regard to the award passed by the claim Tribunal.

12. In this Connection, this Court rely upon the judgement rendered by Hon'ble Supreme Court of India in ***M/s.Bajaj Alliance General Insurance Co. Ltd., Vs. Rambha Devi and Others*** reported in ***(2025) 3 SCC 95*** in which, it has held as follows:

“181. Our conclusions following the above discussion are as under:-

181.1) A driver holding a license for Light Motor Vehicle (LMV) class, under Section 10(2)(d) for vehicles with a gross vehicle weight under 7,500 kg, is permitted to operate a ‘Transport Vehicle’ without needing additional authorization under Section 10(2)(e) of the MV Act specifically for the ‘Transport Vehicle’ class. For licensing purposes, LMVs and Transport Vehicles are not entirely separate classes. An overlap exists between the two. The special eligibility requirements will however continue to apply for, inter alia, e-carts, e-rickshaws, and



vehicles carrying hazardous goods.

181.2) The second part of Section 3(1), which emphasizes the necessity of a specific requirement to drive a 'Transport Vehicle,' does not supersede the definition of LMV provided in Section 2(21) of the MV Act.

181.3) The additional eligibility criteria specified in the MV Act and MV Rules generally for driving 'transport vehicles' would apply only to those intending to operate vehicles with gross vehicle weight exceeding 7,500 kg i.e. 'medium goods vehicle', 'medium passenger vehicle', 'heavy goods vehicle' and 'heavy passenger vehicle'.

181.4) The decision in Mukund Dewangan (2017 (14) SCC 663) is upheld but for reasons as explained by us in this judgment. In the absence of any obtrusive omission, the decision is not per incuriam, even if certain provisions of the MV Act and MV Rules were not considered in the said judgment."

13. The auto driver was holding a valid license to drive LMV and the same was marked as Ex.R3. Since the unladen/gross weight of the auto falls below 7500 Kgs. The vehicle come within the category of LMV. In view of the above decision and as per Sections 10(2)(d) & 10(2)(e) read with Section 2(21) of the Motor Vehicles Act,



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the Tribunal rightly held that the driver holding LMV license was authorised to drive the said auto at the time of accident. Therefore, the Civil Miscellaneous Appeal is not sustainable and dismissed as devoid of merits. Point Nos.1 and 2 are answered accordingly.

14. In the result, this Civil Miscellaneous Appeal is dismissed and the impugned order passed in W.C.No.172 of 2008, dated 30.12.2009 by the Commissioner for Workmen Compensation, Madurai is hereby confirmed. The learned counsel for the appellant Insurance Company has stated that the entire award amount has already been deposited before the Tribunal and the claimant has also withdrawn 50% of the award amount. Hence the claimant is at liberty to withdraw the remaining amount by filing necessary application before the tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
NCC : Yes / No
vsn



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To

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The Commissioner for Workmen Compensation,
Madurai.

Copy to

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



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R.POORNIMA, J.

vsn

Judgment in

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