



C.M.A(MD)No.1783 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 15.10.2025

Pronounced on : 29.10.2025

CORAM:

THE HONOURABLE MS.JUSTICE R.POORNIMA

C.M.A.(MD)No.1783 of 2013

and

M.P.(MD)No.3 of 2013

The Divisional Manager,
National Insurance Company,
37-C, S.N.High Road,
Tirunelveli Junction -1,
Tirunelveli Junction.

... Appellant/ 2nd Respondent

Vs.

1.C.Thiagarajan	...1 st Respondent / Petitioner
2.Paramasivan	...2 nd Respondent/1 st respondent
3.Sudalaisamy	...3 rd Respondent/ 3 rd Respondent
4.The Divisional Manager, 37-C, S.N.High Road, Tirunelveli Junction -1, Tirunelveli Junction.	...4 th Respondent/4 th Respondent



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decretal order dated 28.12.2012 made in M.C.O.P.No.432 of 2011 on the file of the Chief Judicial Magistrate Court, Motor Accident Claims Tribunal, Tirunelveli, and allow this Civil Miscellaneous Appeal.

For Appellant : Mr.D.Sivaraman

For Respondents : Mr.T.Selvakumaran – for R1

No appearance – for R3 & R4

Dispensed with – R2

JUDGMENT

The appellant/2nd respondent Insurance company has filed this Civil Miscellaneous Appeal against the fair and decretal order dated 28.12.2012 made in M.C.O.P.No.432 of 2011 by the learned Chief Judicial Magistrate, Motor Accident Claims Tribunal, Tirunelveli.

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

(i) On 24.08.2009 at about 10.30 a.m., the petitioner was travelling in 3rd respondent's auto bearing Registration No.TN 72 F 1712 on the Pettai – Cheranmahadevi main road near M.S.M. Vegetable shop



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from west to east, at that time, one Mahendra Jeep bearing Registration No.TN 69 U 0029 belonging to the 1st respondent which came from the opposite direction driven by its driver in a rash and negligent manner and dashed against the right side body of the auto and hit the right hand of the petitioner. As a result of which the petitioner sustained fracture in the right hand and four fingers were crushed. Immediately, the petitioner was taken to Annai Velankanni Nursing Home at Palayamkottai and admitted as inpatient from 24.08.2009 and thereafter, took treatment at Private Hospital. Due to the fracture in the hand, the petitioner was not able to eat and not able to do his work. He was working as a carpenter and tailor and earned a sum of Rs.6,000/- per month. Now he has not able to do his work as earlier.

(ii) In this connection, Tirunelveli Town Traffic Investigation Wing Police Station registered a case in crime No.63/09 and conducted an investigation. 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. The first respondent was set exparte and the second respondent Insurance company filed counter statement denying the averments contained in the petition. According to second respondent, the Mahendra Jeep hit against the right hand of the petitioner, when the Jeep attempted to cross the said auto and thereby the petitioner who was sitting and seated his right hand on the grill outside and sustained fractures. The injuries sustained by the petitioner was not due to rash and negligent driving of the 1st respondent but the petitioner himself was responsible for the accident. The principle of 'res ipsa loquitur' is applicable in this case. The second respondent further contended that the claim made by the petitioner is highly excessive and prayed for dismissal of the petition.

4. The 2nd respondent and 4th respondent are one and the same insurance company and hence, they adopted the counter filed by the 2nd respondent.

5. The third respondent filed counter denying the allegations contained in the petition and contended that this respondent was added as a formal party. The 3rd respondent vehicle was insured with the the



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fourth respondent insurance company and hence, if any compensation is awarded, the fourth respondent insurance company is liable to pay compensation. The claim is excessive and prayed to dismiss the petition.

6. During trial, on the side of the petitioner, P.W.1 and P.W.2 were examined and Exs.P1 to P8 were marked. On the side of the respondents, R.W.1 was examined and Exs.R1 to R3 were marked.

7.After hearing the parties and perusing the records, the Tribunal fixed the liability on the respondents 1 and 2 awarded a total sum of Rs.1,94,969/- as compensation to the claimant.

8. Aggrieved by the said order, the present Civil Miscellaneous Appeal has been filed by the appellant who is the 2nd respondent insurance company before the Tribunal against the liability fixed on them, with the following among other grounds:-

(i) That the Tribunal failed to note that the driver of the Mahindra Jeep was not holding valid driving licence to drive the transport vehicle, therefore the appellant cannot be mulcted with liability to pay compensation to the claimant.



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(ii) That the Tribunal failed to note that the accident had occurred only due to the negligence of the claimant himself who travelled in the auto by negligently protruding his hand outside the auto which caused the accident.

(iii) That the Tribunal had erred in fixing the liability on this appellant. Hence, 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:-

whether the accident occurred due to the rash and negligent act of the driver of the 1st respondent alone and whether the auto belonged to third respondent is not liable for the contributory negligence and whether order passed by the Tribunal against the respondents 1 and 2, is proper or liable to be set aside ?

11. Point :

The claimant categorically denied the suggestion that the



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accident had occurred due to his carelessness. However, as per complaint statement given by the complainant, Ex.P1, FIR was registered in crime No.63 of 2009 dated 25.08.2009 against the driver of Mahindra pickup jeep bearing registration No.TN 69 U 0029, for the offence punishable under Sections 279, 339 IPC. No complaint filed by the driver of the Mahindra Jeep against the claimant, nor was he examined to establish that the accident occurred due to the claimant's carelessness. The first respondent, the owner of the vehicle failed to appear and contest the case. The appellant failed to produce any substantial material evidence or document to establish that the accident occurred due to the carelessness of the claimant. Therefore, the trial Court rightly held that the accident occurred due to the rash and negligence driving of the first respondent's driver, no interference warranted with the said finding.

12. As far as the second contention raised by the appellant is concerned is that the vehicle was driven by one Maharajan without any valid driving license. The Administrative Officer of the appellant was examined as RW1, in his chief examination deposed that the vehicle belonging to the first respondent was insured with the appellant. He further deposed that the investigating officer had secured the driving



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license from the driver of the first respondent, who was holding LMV license and subsequently, handed over the same to them, however, the same was not produced before the Court. Ex.P.3-AIR, the inspection report of the Motor vehicle involved in the accident, issued by the Motor Vehicle Inspector Grade-1 reveals that in column 7, that the driving license of the driver, Thiru Maharajan bearing number LMV NT A8427/MH02/05, was valid up to 14.12.2025. Normally license LMV (NT) license granted to a person permitting him to drive private light motor vehicles, namely, cars, jeeps, and small vans. The vehicle involved in the accident is not heavy vehicle. Therefore, the argument advanced by the appellant is that the driver is not holding proper license at the time of accident, is not sustainable and the trial Court properly rejected their contention and rightly directed the appellant to pay compensation, which does not warrant any interference. Therefore, the Civil Miscellaneous Appeal is liable to be dismissed. Point is answered accordingly.

13. In the result, this Civil Miscellaneous Appeal is dismissed and the impugned order passed in MCOP.No.432 of 2011, dated 28.12.2012 by the Chief Judicial Magistrate Court, Motor Accident



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Claims Tribunal, Tirunelveli, is hereby confirmed. 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. On such deposit, the 1st respondent/claimant
is permitted to withdraw the amount, less the amount already withdrawn,
if any, together with proportionate interest and costs, by filing an
appropriate petition before the Tribunal. No costs. Consequently,
connected miscellaneous petition is closed.

29.10.2025

Index : Yes / No
NCC : Yes / No
RM

To

1.The Chief Judicial Magistrate 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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