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C.M.A(MD)No.868 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	11.11.2025
Pronounced on	20.11.2025

CORAM:

THE HON'BLE MS JUSTICE R.POORNIMA

C.M.A(MD)No.868 of 2013

and

M.P(MD)No.1 of 2013

The National Insurance Company Limited,
Tirunelveli.

... Appellant/2nd Respondent

Vs.

1.C.Mathivanan

...Respondent-1/Petitioner

2.N.Ramasamy

...Respondent-2/Respondent-1

3.Meeran @ Sheik Meeran

...Respondent-3/Respondent-3

4.Nathar Bawa

...Respondent-4/Respondent-4

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and award made in M.C.O.P. No.84 of 2004, dated 27.08.2009, on the file of the Motor Accidents Claims Tribunal/Principal Sub-Court, Tenkasi.

For Petitioner : Mr.D.Sivaraman

For Respondent-1 : No appearance



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JUDGMENT

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This Civil Miscellaneous Appeal is filed against the award made in M.C.O.P. No.84 of 2004, dated 27.08.2009, on the file of the Motor Accidents Claims Tribunal/Principal Sub-Court, Tenkasi.

2. The case of the petitioner is that on 29.08.2003, at about 6.15 p.m., the petitioner in M.C.O.P. No.84 of 2004 was riding the vehicle bearing Registration No. TN 20 6222 and the petitioner in M.C.O.P. No.85 of 2004 was travelling in the two-wheeler as a pillion rider. At that time, the vehicle bearing Registration No. TN 72 D 6729 belonging to the fourth respondent was driven by the third respondent in a rash and negligent manner and dashed against the two-wheeler in which the claimants in the M.C.O.P. Nos. 84 and 85 of 2024, were travelling as a result of which they sustained injuries and were taken to the hospital and after treatment, they recovered.

3. In this connection, a case in Crime No.622 of 2023 has been registered for the offence under Sections 279 and 337 IPC and the same is pending before the Judicial Magistrate Court, Tenkasi.



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4. The second respondent filed a counter affidavit by denying the manner of the accident and stated that the respondents 3 and 4 alone are liable to pay the compensation as the driver of the two-wheeler did not possess a valid driving license at the time of the accident and prayed for dismissal of the claim petition.

5. The third respondent also denied the averments contained in the petition, contending that the petitioner Mathivanan alone rode the vehicle bearing Registration No.TN 20 6222 in a rash and negligent manner and had dashed against the vehicle bearing Registration No.TN 72 D 6729 and thereby causing the accident. This respondent further submitted that he slowly drove the vehicle and he was not responsible for the accident. It is further contended that the driver of the two-wheeler did not possess a valid driving license and the petition is liable to be dismissed.

6. As both the claim petitions were filed seeking compensation for the same accident, the Tribunal tried the matter in a joint trial and a common judgment was passed on 27.08.2009.



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7. On the side of the petitioner, P.W.1 to P.W.3 were examined and Ex.P1 to Ex.P22 were marked. On the side of the respondents, R.W.1 to R.W.4 were examined and Ex.R1 to Ex.R9 were marked. The claim Tribunal dismissed the claim Petition in M.C.O.P. No.85 of 2004 and allowed the claim petition in M.C.O.P. No.84 of 2004 and ordered compensation of Rs. 80,141/- with interest at the rate of 7.5% p.a., as against respondents 1 and 2 and dismissed the claim petition as against respondents 3 and 4. Against which, the present Civil Miscellaneous Appeal was filed by the Insurance Company challenging the liability.

8. During the course of the argument, it was contended that as per FIR marked as Ex.P1 lodged by one Esakkimuthu the vehicle was driven not by Esakkimuthu but by one Mathivaanan, who is the claimant in M.C.O.P.No.84 of 2004. Likewise, in the accident register of Mathivanan, which was marked as Ex.P2, it was also recorded that Mathivanan had met with an accident while riding a two-wheeler. Likewise, in Ex.P15-Accident Register issued to Esakkimuthu, it was stated that he sustained injuries while travelling pillion rider on the motorcycle.



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9. On the contrary in the claim petition filed by the respondent Mathivanan, in M.C.O.P.No.84 of 2004, he stated that on the date of occurrence, the vehicle was driven by Esakkimuthu and that he was travelling as a pillion rider in the said vehicle. The version is totally inconsistent with the Ex.P1, Ex.P2 and Ex.P15. To conceal the fact that the respondent did not possess a valid license a false claim petition has been filed with the intention to secure compensation. Hence, the claim petition is liable to be dismissed

10. Heard the learned counsel for the petitioner, the respondent failed to appear and argued despite several adjournments.

11. Ex.P1, FIR was registered in crime No.622 of 2003 dated 29.08.2003, under Sections 279 and 337 IPC. The said FIR was registered based on the complaint statement recorded from Esakkimuthu when he was admitted to the Government Hospital, Tenkasi. In his statement, he categorically stated that on 29.08.2003, he was travelling as a pillion rider in the vehicle belonging to the respondent Mathivanan, bearing Registration No.TN 20 6222 which was driven by Mathivanan. In the statement, it was further alleged that he was taken to Government Hospital, Tenkasi for treatment as the driver Mathivanan was not in a position to speak he narrated details of the accident.



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12. The said Esakkimuthu was examined as P.W.2, during the chief examination he deposed that at the time of the accident he alone was driving the vehicle but due to fear, he had falsely stated in the FIR that the vehicle was driven by Mathivanan. However, he has not taken any steps to have the FIR cancelled for false representation. Further, in Ex.P2 accident register pertaining to Mathivanan and Ex.P15 accident register pertaining to Esakimuthu, it was endorsed that the vehicle was driven by Thiru. Mathivanan, at the time of the accident and Esakkimuthu was travelling as pillion driver.

13. The respondent Mathivanan was examined as P.W.1, during cross-examination, he stated that since he was unconscious and not in a position to narrate the manner of the accident, therefore Esakkimuthu (P.W.2) had given the statement. However, Ex.P2 accident register issued to him, it is clearly recorded that the patient was conscious thereby establishing that the respondent's statement, is false. Further the respondent has not challenged the final report by disputing it or by contending that a false case had been foisted against him. However, during the chief examination, admitted that the vehicle bearing registration No.TN 20 6222 was ridden in a rash and negligent manner, by its driver and dashed against the fourth respondent vehicle.



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14. The trial court upon considering the evidence of the eyewitness to the occurrence particularly R.W.3 to R.W.4 who clearly deposed that the accident occurred due to the rash and negligent act of the rider of the vehicle bearing registration No.TN 20 6222 conceded that the rider of the above vehicle was solely responsible for the negligent act and absolved the third and fourth respondents from liability and dismissed the claim petition filed by Esakkimuthu in MCOP No.85 of 2004. However, the claim petition filed by Mathivanan was allowed by holding that he is a third-party vehicle involved in the accident and awarded compensation against which no appeal filed by the claimants.

15. This Court also analysed the entire materials on record, finds that Ex.P1 first information lodged by, Esakkimuthu, supported by Ex.P2 and Ex.P15 accident registers clearly establishes that the two-wheeler bearing registration No. TN 20 6222 was ridden by the said Mathivanan.

16. It is further established that the said Mathivanan did not possess a valid driving license, this fact which was admitted by him during cross-examination. It is further proved that the said Mathivanan rode the vehicle in a rash and negligent manner and caused the accident. In order to avoid



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disclosure of the fact that he was riding the vehicle without a valid license, which amounts to a violation of policy conditions, he concealed the truth and filed the claim petition seeking compensation by making statements that are totally contradictory statement as against Ex.P1, Ex.P2, and Ex.P15.

17. Further, the third respondent who is alleged to be the driver of the offending vehicle has filed a private complaint under Ex.R7 under Section 200 Cr.P.C against Mathivanan based on the referred chargesheet filed by Tenkasi police stating that it was the Mathivanan who drove the vehicle in a rash and negligent manner, and not by him.

18. Furthermore the eye witness to the occurrence R.W.2, the rider of the vehicle bearing Registration No. TN 72 D 6729, R.W.3, one Allah Pichai and R.W.4, Sahul Hameed have clearly stated that the accident occurred solely due to the negligent act of Mathivanan. The respondent did not initiate any action against his Tr. Esakimuthu for filing a false criminal complaint against him. Moreover, the evidence contained in Ex.P2, Ex.P15 coupled with the testimonies of eye witnesses examined as R.W.2 to R.W.4 clearly establishes that the accident occurred solely due to the negligent act of Mathivanan.



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19. According to the appellant/the insurance company, the vehicle involved in the accident belongs to the respondent Mathivanan and since he is the tortfeasor not entitled to compensation. However, Ex.P18 shows that the policy did not stand in the name of the respondent, but in the name of one Ramasamy. But the policy was in force at the time of accident. Motor Insurance protects the third parties not the negligent driver. Even if the policy was in force, the insurance does not cover the negligence of the person who caused the accident. It further strengthens that the claimant did not possess a valid driving license, which also amounts to policy violation. The injured is not a third party but a negligent driver, cannot be treated as a third party as he drove the vehicle negligently and caused the accident and sustained injuries for which he is not entitled for compensation.

20. Without considering the above facts the Tribunal erroneously allowed the claim and awarded compensation which is liable to be set aside.

21. In view of that, the Civil Miscellaneous Appeal is **allowed with costs**. The award dated 27.08.2009 passed in M.C.O.P. No.84 of 2004, dated 27.08.2009, on the file of the Motor Accidents Claims Tribunal/Principal Sub-Court, Tenkasi is hereby set aside. The insurance company is permitted to



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withdraw the amount already deposited, if any, after the appeal time is over.

Consequently, connected Miscellaneous Petition is closed.

20.11.2025

NCS : Yes/No

Index : Yes / No

vsn/rm



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To

The Principal Sub Judge,
(The Motor Accidents Claims Tribunal),
Tenkasi.

Copy to

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



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R.POORNIMA., J.

rm

PRE-DELIVERY JUDGMENT IN

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