BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.M.A(MD)No.134 of 2019 and C.R.P.(PD)(MD)No.2617 of 2022
and
C.M.P(MD)No.1733 of 2019

C.M.A(MD)No.134 of 2019:

The Branch Manager,
M/s.The Oriental Insurance Company Ltd.,
D.O.Dindigul 1st Floor,
Loyola Building, Salai Road,
Dindigul. .. Petitioner

Vs

1. Pasumpon
2.J.Lawrence
3. K.Vimala

4.Branch Manager,
Royal Sundaram Alliance Insurance Co. Ltd.,
TVS Co-operative Store Building,

5.S.P.Chenniappan

6. The Branch Manager,
National Insurance Co., Ltd.,

No.7, Rajaji Street,
Gopichettipalayam,
Erode. .. Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, challenging the judgment and decree passed in MCOP.No. 1482 of 2011 dated 12.03.2018 passed by the learned Chief Judicial Magistrate/Motor Accident Claims Tribunal, Madurai.

For Appellant : Mr.C.Jawahar Ravindran

For Respondents : Mr.R.Manoharan
for R1
:R3, R4 & R5- given up
:Mr.C.Jawahar Ravindran
for R6

C.R.P.(PD)(MD)No.2617 of 2022:

Pasumpon .. Petitioner

Vs

1.J.Lawrence
2.The Branch Manager,
National Insurance Company Limited,
D.O.Dindigul 1st Floor,
Layola Campus, Salai Road,
Dindigul.

3.K.Vimala

4.The Branch Manager,
Royal Sundaram Alliance Insurance Co. Ltd.,
TVS Co-operative Store Building,
37, Krishnaraj Tank Street,
Madurai.

5.S.P.Senniappan
6. The Branch Manager,
National Insurance Co., Ltd.,
No.7, Rajaji Street,
Gopichettipalayam,
Erode. .. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, challenging the docket order in unnumbered I.A(sl.No.558/2022) in MCOP.No.1482 of 2011 dated 15.12.2022 passed by the learned Chief Judicial Magistrate/Motor Accident Claims Tribunal, Madurai.

For Petitioner : Mr.R.Manoharan

For Respondents : Mr.C.Jawahar Ravindran
for R6

COMMON JUDGMENT

Since the issue involved in these two cases are interconnected, they are taken up together and disposed of by this common judgment.

For convenience, the parties are referred to as per their ranking in the Civil Miscellaneous Appeal.

2. The learned counsel for the appellant submits that the appellant insurance company filed Civil Miscellaneous Appeal challenging the award passed by the trial Court on the ground that the driver of the lorry, which is insured with the appellant insurance company, did not have valid driving licence to drive the heavy vehicle at time of accident. On the sole ground, the Civil Miscellaneous Appeal has been filed.

3. The learned counsel for the appellant submits that on 14.07.2011 at early morning 3.00 a.m., the claimant/first respondent travelled in a share auto bearing registration No.TN58 V 3546 owned by the third respondent/Vimala insured with the fourth respondent/Royal Sundaram Insurance Company. At that time, the second and fifth respondent's lorry bearing registration No.TDX 7656 was driven by its driver in a rash and negligence manner dashed against the auto. Thereby the first respondent/passenger of auto sustained injuries and filed a claim petition before the claims tribunal. The Motor Accidents Claims Tribunal, after adjudication fixed liability as against the appellant and other insurance

company equally. Challenging the same the Civil Miscellaneous Appeal has been filed.

4. The learned counsel for the appellant submits that at the time of accident, the driver of the appellant insured vehicle not possess a valid driving licence. Without a valid driving licence, the second respondent/owner of the lorry is not entitled to claim compensation and he violating the contract condition by engaging ineligible driver to drive the heavy vehicle. However, the said issue was not properly adjudicated by the trial Court and fix the liability as against the appellant is not sustainable. Accordingly, he prayed for dismissal of the Civil Miscellaneous Appeal.

5. The learned counsel for the appellant submits that initially the said lorry was owned by the second respondent/Lawrence and he insured with the appellant and prior to that, the fifth respondent owned the vehicle insured with the sixth respondent and after trial, the trial Court fixed liability as against the appellant and the sixth respondent. Howeve,r the learned counsel for the sixth respondent submitted that the sixth respondent has not preferred any appeal as against the order passed by the trial Court. Accordingly he prayed for appropriate orders.

6. Per contra, the learned counsel for the first respondent/claimant submits that admittedly, the first respondent/claimant travelled as passenger in the auto owned by the third respondent insured with the fourth respondent. Further after the accident, the law enforcing agency registered a criminal case as against the appellant insured vehicle driver and the present appeal has been filed. Thereby the trial Court fixed entire liability as against the appellant and other respondents. The present appeal is filed solely on the ground that the appellant insured vehicle driver not possess the valid driving licence. However, it is not proved and no other witnesses were examined before the trial Court except the officials of the appellant/insurance company and Law Enforcing Agency.

7. The learned counsel for the first respondent/claimant further submits that because of the pendency of the Civil Miscellaneous Appeal and since the entire record was called for by this Court, the trial court refused to entertain the payment petition against which the petitioner filed Civil Revision Petition before this Court. Therefore, he prays that this Court may dispose of the Civil Revision Petition to enable the petitioner/claimant to withdraw the amount pending before the trial Court and direction may be issued to the trial Court to entertain the withdrawal petition filed by the petitioner/claimant and

pass appropriate orders as expeditiously as possible.

8. The present appeal has been filed by the appellant/insurer on the ground that the driver of the vehicle, which is insured with the appellant is not possessed of a valid driving licence and, therefore, the appellant is not liable to compensate the claimant. Though such a contention is advanced by the learned counsel, however, it is to be pointed out that to substantiate the same, the appellant has not placed any material, either oral and documentary to establish that the driver of the vehicle was not possessed of a valid driving licence. The appellant has examined the Road Transport Officer as R.W.2, who has clearly spoken that the driver of the lorry was possessed of a heavy licence driving licence, but the same has expired in 2009. R.W.2 has further deposed that the driver may have renewed his driving licence through any other transport office, as such renewal could be made throughout the State in any transport office. The appellant has not placed any material to establish that the said driving licence was not renewed. Such being the admitted position, when the driver was possessed of a driving licence, though on the crucial date, it is alleged to have been lapsed, a duty is cast upon the appellant/insurer to establish that the driver has not renewed the driving licence as the logical inference that could be drawn by this a man of average knowledge is that the

driving licence being his bread and butter, definitely he would have renewed it. Therefore, it is for the insurer to establish that the driver has not renewed his driving licence and without establishing the same, the insurer cannot get itself absolved of its duty to compensate the claimant. Appreciating the aforesaid facts in proper perspective, the Tribunal had passed the impugned award, which is fair and reasonable and the same does not require any interference at the hands of this Court.

9. Insofar as the civil revision petition seeking payment out is concerned, consequent upon the dismissal of the appeal filed by the insurer, the amount, which has been deposited in terms of the award, the claimant is entitled to the same. Accordingly, the civil revision petition is allowed with a direction to the Tribunal to disburse the award amount, which has been deposited to the claimant, within a period of two weeks from the date of receipt of a copy of this order.

10. For the reasons aforesaid, the civil miscellaneous appeal is dismissed and as a consequence thereof, the civil revision petition is allowed. It is reported that the award amount has been deposited to the credit of the petition before the Tribunal. The Tribunal is directed to disburse the amount,

which has been deposited to the credit of MCOP.No.1482 of 2011, through RTGS to the bank account of the claimant along with accrued interests and costs within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

28.08.2025

Index :Yes/No
NCC :Yes/No
PJL

To
1.The Chief Judicial Magistrate/
Motor Accident Claims Tribunal,
Madurai.

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

M.DHANDAPANI, J.

PJL

C.M.A(MD)No.134 of 2019
and
C.R.P.(PD)(MD)No.2617 of 2022

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