



C.M.A(MD)No.472 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date of Reserved	18/09/2025
Date of Pronounced	05/11/2025

CORAM:

THE HONOURABLE MS.JUSTICE R.POORNIMA

C.M.A.(MD)No.472 of 2014

and

M.P.(MD)No.1 of 2014

The Divisional Manager,

M/S. United India Insurance Co. Ltd.,

406, Periyakulam Road,

Theni .

... Appellant/ 2nd Respondent

Vs.

1.Kalaiselvan

...1st Respondent / Petitioner

2.Mohamed Yasin

...2nd Respondent/1st respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, to set aside the order dated 10.09.2012 made in W.C.No.254 of 2007 on the file of the Workmen Compensation Commissioner of Labour, Dindigul, and allow this Civil Miscellaneous Appeal.



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For Appellant : Mr.G.Prabhu Rajadurai

For Respondents : Mr.P.Dinesh kumar – for R2
for Mr.C.M.Arumugam
No appearance – for R1

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JUDGMENT

The appellant/2nd respondent Insurance company has filed this Civil Miscellaneous Appeal against the order dated 10.09.2012 made in W.C.No.254 of 2007 on the file of the Workmen Compensation Commissioner of Labour, Dindigul.

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

(i) The petitioner was employed under the 1st respondent as driver of his auto bearing registration No.TN 60 A 1085. On 18.07.2007, at about 1.10 hours, during the course of his employment, the petitioner was driving the auto near a cinema theatre proceeding from north to south in accordance with traffic rules. At that time, an another auto approached from opposite direction. In order to avoid head on collision, applied sudden break, due to which the auto tilted and capsized. As a result of the accident, the petitioner sustained injuries all over body and



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was initially admitted in Cumbum Government Hospital. He was later referred to Theni Government Hospital for further treatment, where he underwent inpatient for the period of 2 months. The petitioner suffered permanent disability involving the maljoint of bone and functional impairment of the of the right leg. Consequently he has been rendered unfit to work as a driver and has lost his earning capacity.

(ii) In this connection, the Cumbum North Police registered a case in Crime No.274 of 2007. Since, the 1st respondent's vehicle was insured with the 2nd respondent, the accident was occurred, during the course of employment, the petitioner has claimed a sum of Rs.5,00,000/- towards compensation, both the respondents are liable to pay compensation to the petitioner.

3. The 2nd respondent filed counter by denying all the allegations made by the petitioner in his petition. It is contended that the petitioner did not posses valid license to drive the auto at the time of accident and also not obtained the requisite badge for driving transport vehicle. It is further alleged that the petitioner in collusion of other auto drivers had fabricated the occurrence and stated the accident with intention to unlawfully claim compensation from the respondents. The



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petitioner has to prove the employer and employee relationship between the petitioner and the 1st respondent. Hence, he prayed to dismiss the petition.

4. During trial, on the side of the petitioner, P.W.1 and P.W.2 were examined and Exs.P1 to P7 were marked. On the side of the 2nd respondent, R.W.1 and R.W.2 were examined and Ex.R1 was marked. Ex.C1 was also marked.

5. After hearing the parties and perusing the records, the Labour Court awarded a sum of Rs.1,54,680/- as compensation to the claimant. The insurance company is directed to deposit the same within 30 days from the date of order.

6. 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 Labour Commissioner erroneously directed this appellant to pay the compensation, though it was established that at the



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time of accident, the petitioner/driver did not possess valid driving license to drive an Auto on the date of accident.

(ii) The claimant himself is the cause for breach of policy condition, the insurance company has to be totally exonerated from the liability as per the judgment rendered by the Hon'ble Supreme Court in Sardari and others versus Sushilkumar and others reported in 2008 ACJ 1307. Therefore, prayed to set aside the order of the Labour Commissioner and allow the Civil Miscellaneous Appeal.

9. Heard the learned counsels appearing on either side and perused the materials available on record.

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

1. Whether the Labour Commissioner is correct in law in directing the insurer to pay the compensation though it was established that the driver /workman did not possess valid driving license to drive the auto on the date of accident ?



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11.Point No.1 :

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In the present case, the quantum of compensation is not under challenge. During the course of argument, the learned counsel for the appellant fairly conceded that they were under the impression that a driver who is having license (LMV), is not permitted to drive vehicle under 7500 Kgs., since the driver do not possess badge at the time of accident, the insurance company did not be fastened the liability. Except on this ground the appellant has no grievance with regard to the award passed by the claim Tribunal.

12. On perusal record, the Regional Transport Officer of Theni, enclosed the driving license of the claimant which shows that he was holding LMV23/01/2003 TN/60 license which is valid from 23.01.2003 to 24.06.2019.

13. 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.”

14. The auto driver was holding a valid license to drive LMV and the same was marked as Ex.C1. Since the unladen/gross weight of the auto falls below 7500 Kgs., the vehicle is classified 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, the Tribunal rightly held that the driver holding LMV license was duly authorised to drive the said auto in question at the time of accident.

15. From the above discussion and upon consideration of the facts and evidence on record, it is clear that the petitioner was holding a valid license at the time of accident. He was permitted to operate a transport vehicle and no separate authorisation under Section 10(2)(e) was required specifically for driving a transport vehicle. In view of the judgment cited supra, the petitioner holds a valid license and has not committed any breach of policy violation. Therefore, the Civil Miscellaneous Appeal is not sustainable and dismissed as devoid of merits. Point No.1 is answered accordingly.



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16. In the result, this Civil Miscellaneous Appeal is dismissed and the impugned order passed in W.C.No.254 of 2007, dated 10.09.2012 by the Workmen Compensation Commissioner of Labour, Dindigul, is hereby confirmed. It is noted that the award amount has already deposited on 07.11.2012, at the time of filing the appeal, insurance company produced the deposit receipt. Therefore, no further any direction is required to be issued to the appellant to deposit the money again. No costs. Consequently, connected miscellaneous petition is closed.

05.11.2025

Index : Yes / No

NCC : Yes / No

RM

To

1.The Workmen Compensation Commissioner of Labour,
Dindigul.

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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