BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05.11.2025

CORAM:

THE HONOURABLE MS.JUSTICE R.POORNIMA

C.M.A.(MD)No.508 of 2014
and
M.P.(MD)No.1 of 2014

The Branch Manager,
National Insurance Company Ltd.,
Nagercoil. ... Appellant/ 4th Respondent

Vs.

1.P.Elango Prabhu ...1st Respondent / Petitioner

2.C.Suresh ...2nd Respondent/1st respondent

3.M/s.Lakshmi Enterprises,
158, Palamor Road, Nagercoil,
Kanyakumari District. ...3rd Respondent/ 2nd Respondent

4.The Branch Manager,
New India Assurance Company Ltd.,
Nagercoil. (given up) ...4th Respondent/ 3rd Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decretal order dated 01.04.2009 made in M.C.O.P.No.116 of 2005 on the file of the I Additional Subordinate Court, Motor Accident Claims Tribunal, Nagercoil, and allow this Civil Miscellaneous Appeal.

For Appellant : Mr.N.Murugesan

For Respondents : Mr.T.Selvakumaran – for R1
No appearance – for R3 & R4
Dispensed with – R2

JUDGMENT

The appellant/4th respondent Insurance company has filed this Civil Miscellaneous Appeal against the fair and decretal order dated 01.04.2009 made in M.C.O.P.No.116 of 2005 by the I Additional Subordinate Court, Motor Accident Claims Tribunal, Nagercoil,

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

(i) On 11.03.2003 at about 04.30 p.m., while the petitioner was returning in his motorcycle bearing Registration No.TN 74 D 7554 while when he reached at Monday market in front of Chockalingam Nadar's shop, the 1st respondent who was driving an auto bearing Registration No.TN 74 A 9290 in a rash and negligent manner without observing traffic rules and regulations dashed against the petitioner's vehicle. As a result of which, the petitioner sustained grievous injury on his right leg, and was admitted in Krishnakumar Hospital, Parvathipuram where he underwent treatment.

(ii) In this connection, Eraniel Police Station registered a case in crime No.148/2003 and conducted an investigation. The petitioner has claimed a sum of Rs.3,00,000/- towards compensation amount.

3. According to the 1st and 2nd respondents, since the vehicle was insured with National Insurance Company, if any compensation is awarded, is liable to be paid by the said insurance company alone. Therefore, they seek to implead the insurer. The New India Assurance Company Limited has been unnecessarily impleaded as a party to the proceedings.

4. The third respondent Insurance company also denied the

claim by stating that no liability can be fastened on the third respondent as the auto was not insured with him. Hence, prayed for dismissal of the petition.

5. The fourth respondent Insurance company repudiated the claim contending that the petitioner is liable to prove the existence of valid and effective insurance policy in respect of the vehicle bearing Registration No.TN 74 A 9290 as on the time of accident. It is further contended that the policy stood in the name of M/s.Lavanya Sanitary Centre, whereas the RC stood in the name of M/s.Sri Lakshmi Enterprises. This respondent has also contended that the petitioner himself is the sole cause for the accident and that the accident was not reported due to violation of the policy condition, Therefore, they denied its liability to pay any compensation.

6. During trial, on the side of the petitioner, P.W.1 and P.W.2 were examined and Exs.P1 to P10 were marked. On the side of the respondents, R.W.1 and R.W.2 were examined and Exs.R1 to R4 were marked.

7.After hearing the parties and perusing the records, the Tribunal fixed the liability on the respondents 1, 2 and 4 awarded a total sum of Rs.1,29,788/- 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 4th 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 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 /4th 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 authorisation in Form 6 as mandate under Rule 16 of driving licence to drive the auto bearing Registration No.TN 74 A 9290.

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, 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 MCOP.No.116 of 2005, dated 01.04.2009 by the I Additional Subordinate Court, Motor Accident Claims Tribunal, Nagercoil, is hereby confirmed. It is noted that this Court vide order dated 24.10.2024 passed in MP(MD)No.1 of 2014 had already permitted the claimant to withdraw the entire compensation deposited by the appellant insurance company. 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 I Additional Subordinate Court,
Motor Accident Claims Tribunal,
Nagercoil,

Copy to

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

R.POORNIMA, J.

RM

Judgment in

C.M.A.(MD)No.508 of 2014

05.11.2025