BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved	27/10/2025
Date of Pronounced	13/11/2025

CORAM

The Hon'ble Ms.Justice **R.POORNIMA**

CMA(MD)No.855 of 2015
and
M.P.No.3 of 2015

M/s.United India Insurance Company Limited,
Represented by its Branch Manager,
Main Road, Marthandam,
Nalloor Village,
Vilavancode Taluk,
Kanyakumari District. : Appellant/3rd Respondent

Vs.

1.Babu Antony Raj : 1st Respondent/Claimant

2.Mr.Iyyappan

3.Mr.Jayaram

4.Mr.Nallasivam Pillai : Respondents 2 to 4/R1, R2 &R4

PRAYER:-Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 17/02/2012 made in MCOP No.13 of 2007 on the file of the Motor Accident Claims Tribunal (Sub Court), Padmanabhapuram.

For Appellant : Mr.D.Rajesh Saravanan

For 1st Respondent : Mr.F.Deepak
(No appearance)
For R2 and R4 : No appearance

For 3rd Respondent : Mr.S.Jeyakumar

JUDGMENT

This Civil Miscellaneous Appeal is preferred against the judgment and decree, dated 17/02/2012 made in MCOP No.13 of 2007 on the file of the Motor Accident Claims Tribunal (Sub Court), Padmanabhapuram.

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

(i) On 05/06/2006 at about 08.30 am, the petitioner was returning from Thozhicode after purchasing some materials from a shop,proceeding towards his residence by walking along the Thozhikode Melmidalam Main Road . At that time, the 1st respondent drove the motor cycle No.TCK-2831 in a rash and negligent manner and dashed against the petitioner. As a result ,the petitioner sustained grievous injuries and was taken to the PPK Hospital Marthandam where he was admitted and underwent surgery during which surgery was fixed. Thereafter, he was discharged from the hospital, on 15/06/2006.

(ii) Over the occurrence, a case in Crime No.212 of 2006 was registered by the Karungal Police Station for the offences under Sections 279 and 337 IPC against the driver of the offending vehicle.

3.At the time of accident, the petitioner was a student aged about 15 years. Claiming compensation of Rs.1,50,000/- for the injuries sustained in the accident, he filed a claim petition before the Tribunal.

4.The 2nd respondent filed a counter denying the entire allegation contained in the claim petitions by contending that the accident occurred, solely due to the negligence of the claimant who was a young boy and he suddenly crossed the road without observing the traffic rules. Therefore, the 2nd respondent is not liable to pay any compensation .

5.The 3rd respondent insurance company filed a separate counter affidavit contending that no such accident occurred as alleged in the claim petition and faulted the petitioner that he only suddenly crossed the main road, without noticing the moving vehicles on the main road and therefore, alone the claimant was responsible for the accident. Hence, the 3rd respondent is not liable to pay compensation to the petitioner and prayed for dismissal of the claim petition.

6.The 4th respondent also filed a separate counter denying the allegations made in the claim petition. He further contended that he is not the owner of the vehicle at the time of the alleged accident, he already sold his motor cycle TOK-2831 to one Nagarajan, on 14/05/2004 through Sun Automobiles, Marthandam and has executed all necessary documents for transfer the ownership, etc. Since the present owner Nagarajan failed to comply the above said legal formalities, he is not liable to pay any compensation and prayed for dismissal of the claim petition.

7.Before the Tribunal, on the side of the claimant, 2 witnesses were examined as PW1 and PW2 and 15 documents were marked as Exs.P1 to P15. On the side of the respondents, 2 witnesses were examined as RW1 and RW2 and 5 documents were marked as Exs.R1 to R5.

8.After considering the material evidence and records, the Tribunal has awarded compensation of Rs.1,49,320/- together with interest at the rate of 7.5% per annum and directed the 3rd respondent

Insurance Company to pay the said award amount. The claim petition was dismissed as against the 4th respondent.

9.Aggrieved over the order of the Tribunal, this Civil Miscellaneous Appeal has been preferred by the Appellant Insurance Company, disputing the manner of accident and their liability to pay the compensation.

10. It is further submitted that the driver of the offending vehicle was not possessing a valid driving license. The 4th respondent being the owner of the vehicle had permitted his driver to drive his vehicle violation of permissions and condition prescribed the Motor Vehicles Act and Rules. It is also submitted that the 3rd and 4th respondent have suppressed the fact of transfer of vehicle, took policy from the Appellant Insurance Company in an appropriate manner.

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

(1) whether the order passed by the Tribunal is proper or liable to be set aside ?

12. This court considered the rival submission of the learned counsel appearing on either side and perused the materials available on record.

13.Point :

During the course of argument, the appellant did not question quantum of compensation awarded but challenging the liability on the ground that the driver of the offending vehicle was not posses a valid license and effective driving license at the time of accident. The third and fourth Respondent suppressed the transfer of the vehicle and therefore they are not liable for paying compensation.

14. The insurance company has not disputed that the policy issued in respect of the vehicle bearing Registration No.TCK 2831 in the name the second respondent was in force at the time of accident. The fourth respondent was also impleaded as a necessary party. He however, contended that the vehicle had already been transferred in favour of the second respondent. On the contrary, as per Ex.R4, it is evident that on the date of accident viz., 5.6.2006, the fourth respondent continue to be the registered owner of the vehicle and the ownership of the vehicle was transferred in favour the second respondent only on 15.6.2006,

subsequent to the accident. As per Ex.R2, inspection report filed on behalf of the appellant, the second respondent was shown as the owner of the vehicle, and had obtained the insurance policy in his name. if the vehicle has not sold to him, there is no necessary for him to take a policy for the vehicle in his name.

15. From the above evidence, we infer that there was some delay took place in transferring the vehicle in the name of the second respondent. The second respondent is also mentioned as the owner in the Motor Vehicle Inspection report he has not raised any objection to the same in his counter. Therefore the insurance Company cannot contend that there was suppression of transfer by the second and fourth respondent. The ownership details clearly reflected in the report as well as in the policy, the Insurance company has no right to resettling the claim stating that there is a suppression of transfer by the second and fourth respondent.

16. The further contention of the insurance company is that, the driver of the offending vehicle did not posses a valid license at the time of accident. The duly authorised representative of the Regional transport office was examined as RW2, deposed that the driver failed to

produce the license when the vehicle was inspected by the motor vehicle inspector. RW2 did not state anything specific regarding the issuance of driving license by the Regional Transport Authority nor did he confirm that no driving license had been issued to the driver of the said vehicle. In the Motor Vehicle Inspection report Ex.P3, the details of the driving license were not mentioned and was stated as not applicable. The Insurance company also did not put any specific question as to whether a driving, license had been issued by the regional transport Authority to the rider of the offending vehicle. Further more, the insurance company failed to take any steps to issue a notice to the owner or the driver to produce the driving license. The onus is on the insurance company to establish that the driver of the vehicle driver had no valid license. If the insurer succeed, the owner may try to show that he exercised due diligence but the insurance company failed to prove the same. Therefore, the contention of the insurance company that the driver did not possess valid license at the time of accident, not properly proved. Therefore, the contention of the insurance company was rightly negatived by the trial Court. This court does not find any irregularity or infirmity in the finding of the Tribunal. Since the policy issued by the appellant was in force, at the time of accident, the Tribunal rightly held the appellant to pay the compensation, which is proper and need no interference. This Court is of the considered view, that the compensation so awarded is fair and just compensation, and therefore, does not require any interference by this Court.

17. In view of the forgoing discussion, the Civil Miscellaneous Appeal is liable to be dismissed. The point is answered accordingly.

18. In the result, this Civil Miscellaneous Appeal is dismissed and the impugned order dated 17.02.2012 passed in M.C.O.P.No.13 of 2007 by the Subordinate Court, Motor Accident Claims Tribunal, Padmanabhapuram is hereby confirmed. No costs. Consequently, the connected Miscellaneous Petition is closed.

13/11/2025

Index:Yes/No
Internet:Yes/No
er/rm

To,

1.The Motor Accident Claims Tribunal/
Sub Court,
Padmanabhapuram.

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

R.POORNIMA, J

er/rm

CMA(MD)No.855 of 2015

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