



C.M.A.(MD)No.553 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED : 03.07.2025

CORAM:

THE HON'BLE MR.JUSTICE K.K.RAMAKRISHNAN

C.M.A.(MD)No.553 of 2025

and

C.M.P.(MD)No.9370 of 2025

The New India Assurance Company Limited,
66, W.B. Road,
Tiruchirappalli-620008.

... Appellant/
2nd Respondent

Vs.

1.Mahalakshmi

2.Sreenivasaperumal (died)

3.Parvatham (died)

... Respondents 1to3/
Petitioners

4.Thangarani

... Respondent-4/
Respondent-1

Prayer : This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 09.01.2017 made in M.C.O.P.No.1032 of 2015 on the file of the Motor Accident Claims Tribunal / Special District Judge (MCOP Cases), Tiruchy.



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For Appellant : Mr.V.Sakthivel

For Respondents : Mr.S.Prabhu for R1

Mr.D.Boopal for R4

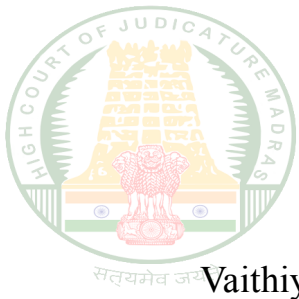
JUDGMENT

The Civil Miscellaneous Appeal has been preferred by the Insurance Company against the award dated 09.01.2017 passed in M.C.O.P.No.1032 of 2015 by the Special District Judge / Motor Accident Claims Tribunal, Tiruchirappalli.

2. The respondents 1 to 3 / claimants have filed a claim petition in M.C.O.P.No.1032 of 2015, claiming compensation for the death of one Chinraj, in an accident that took place on 14.06.2004. The Tribunal has awarded a sum of Rs.7,30,000/- (Rupees Seven Lakhs and Thirty Thousand only) with interest at 7.5% per annum as compensation. Against which, the appellant / insurer has preferred this appeal.

3. A brief substance of the claim petition is as follows:

On 14.06.2004 at about 03.15 p.m., when the deceased Chinraj was travelling in a two wheeler bearing Registration No.TN-45-V-3885 near



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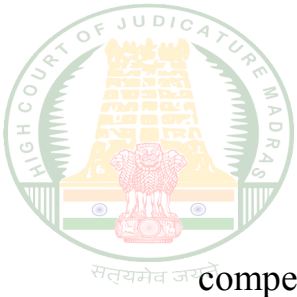
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Vaithiya Hospital from North to South in Thuraiyur to Musiri main road on the extreme left side of the road, a minidor auto bearing Registration No. TN-45-V-3885, which came in the opposite direction in a rash and negligent manner, dashed against the two wheeler and as a result of which, the two wheeler rider Chinraj sustained grievous injuries on his head and died on the spot. The legal heirs of the deceased Chinraj have laid the claim petition in M.C.O.P.No.1032 of 2015 claiming compensation of Rs.10,00,000/- on the ground that the accident occurred only due to the rash and negligent driving of the minidor auto driver.

4. The fourth respondent / first respondent, owner of the vehicle, remained *ex-parte* before the Tribunal and the claim petition was opposed by the appellant / insurer.

5. A brief substance of the counter filed by the insurer is as follows:

The driver who drove the minidor auto at the time of accident, did not possess a badge endorsement in his licence to drive the same, as such, there was a breach of policy conditions. The accident occurred only due to the rash and negligent driving of the deceased Chinraj. The claim of



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compensation is excessive and exorbitant.

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6. On the side of the respondents 1 to 3 / claimants, 2 witnesses were examined as P.W.1 and P.W.2 and 8 documents were marked as Ex.P.1 to Ex.P.8. On the side of the appellant / insurer, 2 witnesses were examined as R.W.1 and R.W.2 and 6 documents were marked as Ex.R.1 to Ex.R.6. 1 Court document was marked as Ex.X.1. After trial, the Tribunal has awarded a sum of Rs.7,30,000/- (Rupees Seven Lakhs and Thirty Thousand only) with interest at 7.5% per annum as compensation to be paid by the appellant / insurer, against which, the appellant / insurer has preferred this Civil Miscellaneous Appeal.

7. Admittedly, the appellant / insurer has not challenged the negligence aspects and also the quantum of compensation awarded at by the Tribunal.

8. The only contention of the learned counsel appearing for the appellant / insurer is that the owner of the minidor auto insured with the appellant / insurer permitted a person who did not have required badge

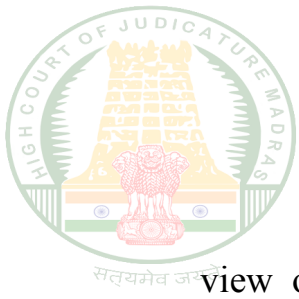


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endorsement in his licence, to drive the said vehicle, thereby, there was a deliberate breach of policy conditions. But it was admitted by the appellant / insurer that the minor auto driver was possessing valid driving license at the time of accident.

9. The Hon'ble Supreme Court in ***Mukund Dewangam Vs. Oriental Insurance Co. Ltd.***, reported in ***AIR 2017 SC 3668*** has clearly held that when driver is holding licence to drive LMV non-transport can drive LMV-transport, a separate endorsement on his driving licence to drive LMV transport is not required. The Hon'ble Constitution Bench of Supreme Court in ***Civil Appeal No.841/2018*** in the case of ***M/s. Bajaj Alliance General Insurance Co. Ltd. Vs. Rambha Devi and others*** has held that the law laid down by it in ***Mukund Dewangan's*** case is the correct law. In the case on hand, the offending minor auto involved in the accident falls under the same class of vehicles namely, Light Motor Vehicle and therefore, as per the aforesaid judgments, non-possession of badge endorsement by the driver of the minor auto at the time of accident, will not amount to violation of policy conditions. Hence, the contention of the appellant / insurer in this regard cannot be accepted. In



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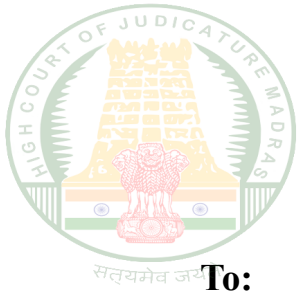
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view of the above, the finding of the Tribunal fixing liability on the appellant / insurer is confirmed. Since the quantum of compensation is not questioned by the appellant / insurer, the same is also confirmed.

10. In the result, this Civil Miscellaneous Appeal stands dismissed and the award dated 09.01.2017 passed in M.C.O.P.No.1032 of 2015 on the file of Motor Accident Claims Tribunal / Special District Court, Tiruchirappalli, is confirmed. The appellant / insurer is directed to deposit the entire award amount with accrued interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, if not already deposited and on such deposit being made, the first respondent / first claimant is permitted to withdraw the said amount, with accrued interest and costs. Consequently, connected Miscellaneous Petition is closed. No costs.

03.07.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To:

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1. The Special District Judge,
Motor Accident Claims Tribunal,
Tiruchirappalli.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN,J.

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Judgment made in
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Dated : 03.07.2025