IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-03-2026

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THE HON'BLE MRS.JUSTICE R. KALAIMATHI

CMA No. 488 of 2026
and CMP No.5882 of 2026

United India Insurance Company Limited
Silingi Building,
4th Floor,
No. 134, Greams Road,
Chennai 06. ..Appellant(s)

Vs

1. K. Dhatchayani
2. M. Jafer Sadiq
3. V. Geetha

..Respondent(s)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of M.V.Act, 1988, against the award and decree dated 13.08.2025 made in MCOP.No.3473 of 2023 on the file of The Motor Accidents Claims Tribunal, Special I Judge, Small Causes Court, Chennai.

For Appellant(s): Mr.Arunkumar.S

For Respondent(s): Mr.R.Dinesh Kumar - R1

JUDGMENT

The Civil Miscellaneous Appeal has been preferred by the Insurance Company against the award dated 13.08.2025 made in MCOP.No.3473 of 2023 on the file of the Motor Accidents Claims Tribunal, Special I Judge, Small Causes Court, Chennai, on the liability issue.

2.The parties are indicated herein as per their litigative status before the Tribunal.

3.Learned counsel for the appellant would submit that the 1st respondent drove his motor cycle without valid driving licence at the relevant point of time and thereby violated the policy conditions. He would further contend that in such circumstances, as the owner of the vehicle, has violated the policy condition, and the Insurance Company is not liable to pay compensation to the claimant herein.

4.The claim petition was filed under Section 166 of Motor Vehicles Act, 1988, claiming compensation of Rs.10 lakhs for the injuries sustained by the claimant during the road traffic accident that occurred on 07.06.2023.

5.The Tribunal, upon consideration of oral and documentary evidence, and after hearing the arguments advanced by either side, directed the Insurer to pay the compensation at the first instance and to recover the same from the 1st and 2nd respondents therein. This order of pay and recover passed by the Tribunal is put to challenge in this appeal.

6.The copy of the Insurance Policy has been marked as Ex.R5. The period of the policy is 24.10.2018 to 23.10.2023. The policy was issued before the date of amendment viz. 04.02.2022. The date of issuance of policy is the crucial aspect. As per Section 147 (4) of the M.V. Act, the Insurance policies issued before the commencement of the Motor Vehicles (Amendment) Act, 2019, shall continue to be governed by the provisions of the unamended Act, irrespective of subsequent amendments.

7.In such circumstances, it is relevant to refer to the observations made by the Hon'ble Supreme Court in the case of ***National Insurance Company Limited V. Swaran Singh and others*** reported in [(2004) 3 SCC 297], wherein, it has been held that the Insurance Company has to satisfy the decree at the first instance and later recover the awarded amount from the owner or driver of the vehicle. In light of the judgment cited supra, the United India Insurance Company Ltd. / Insurer of the motor cycle is liable to pay the compensation at the first instance and recover the same at a later point of time from the 1st and 2nd respondents / owners of the motor cycle.

8.Based on the aforesaid details, Section 147(4) of the Act of 2019 has to be referred to. Section 147(4) is extracted hereunder;

"110. The summary of our findings …..

(i) Chapter XI of the Motor Vehicles Act, 1988 providing compulsory insurance of vehicles against third-party risks is a social welfare legislation to extend relief by compensation to victims of accidents caused by use of motor vehicles. The provisions of compulsory insurance coverage of all vehicles are with this paramount object and the provisions of the Act have to be so interpreted as to effectuate the said object;

(ii) An insurer is entitled to raise a defence in a claim petition filed under Section 163-A or Section 166 of the Motor Vehicles Act, 1988, inter alia, in terms of Section 149(2)(a)(ii) of the said Act;

(iii) The breach of policy condition e.g. disqualification of the driver or invalid driving licence of the driver, as contained in sub-section (2)(a)(ii) of Section 149, has to be proved to have been committed by the insured for avoiding liability by the insurer. Mere absence, fake or invalid driving licence or disqualification of the driver for driving at the relevant time, are not in themselves defences available to the insurer against either the insured or the third parties. To avoid its liability towards the insured, the insurer has to prove that the insured was guilty of negligence and failed to exercise reasonable care in the matter of fulfilling the condition of the policy regarding use of vehicles by a duly licensed driver or one who was not disqualified to drive at the relevant time;

(iv) Insurance companies, however, with a view to avoid their liability must not only establish the available defence(s) raised in the said proceedings but must also establish "breach" on the part of the owner of the vehicle; the burden of proof wherefor would be on them;

(v) The court cannot lay down any criteria as to how the said burden would be discharged, inasmuch as the same would depend upon the facts and circumstances of each case;

(vi) Even where the insurer is able to prove breach on the part of the insured concerning the policy condition regarding holding of a valid licence by the driver or his qualification to drive during the relevant period, the insurer would not be allowed to avoid its liability towards the insured unless the said breach or breaches on the condition of driving licence is/are so fundamental as are found to have contributed to the cause of the accident. The Tribunals in

interpreting the policy conditions would apply "the rule of main purpose" and the concept of "fundamental breach" to allow defences available to the insurer under Section 149(2) of the Act;

(vii) The question, as to whether the owner has taken reasonable care to find out as to whether the driving licence produced by the driver (a fake one or otherwise), does not fulfil the requirements of law or not will have to be determined in each case;

(viii) If a vehicle at the time of accident was driven by a person having a learner's licence, the insurance companies would be liable to satisfy the decree;

(ix) The Claims Tribunal constituted under Section 165 read with Section 168 is empowered to adjudicate all claims in respect of the accidents involving death or of bodily injury or damage to property of third party arising in use of motor vehicle. The said power of the Tribunal is not restricted to decide the claims inter se between claimant or claimants on one side and insured, insurer and driver on the other. In the course of adjudicating the claim for compensation and to decide the availability of defence or defences to the insurer, the Tribunal has necessarily the power and jurisdiction to decide disputes inter se between the insurer and the insured. The decision rendered on the claims and disputes inter se between the insurer and insured in the course of adjudication of claim for compensation by the claimants and the award made thereon is enforceable and executable in the same manner as provided in Section 174 of the Act for enforcement and execution of the award in favour of the claimants;

(x) Where on adjudication of the claim under the Act the Tribunal arrives at a conclusion that the insurer has satisfactorily proved its defence in accordance with the provisions of Section 149(2) read with sub-section (7), as

interpreted by this Court above, the Tribunal can direct that the insurer is liable to be reimbursed by the insured for the compensation and other amounts which it has been compelled to pay to the third party under the award of the Tribunal. Such determination of claim by the Tribunal will be enforceable and the money found due to the insurer from the insured will be recoverable on a certificate issued by the Tribunal to the Collector in the same manner under Section 174 of the Act as arrears of land revenue. The certificate will be issued for the recovery as arrears of land revenue only if, as required by sub-section (3) of Section 168 of the Act the insured fails to deposit the amount awarded in favour of the insurer within thirty days from the date of announcement of the award by the Tribunal;

(xi) The provisions contained in sub-section (4) with the proviso thereunder and sub-section (5) which are intended to cover specified contingencies mentioned therein to enable the insurer to recover the amount paid under the contract of insurance on behalf of the insured can be taken recourse to by the Tribunal and be extended to claims and defences of the insurer against the insured by relegating them to the remedy before regular court in cases where on given facts and circumstances adjudication of their claims inter se might delay the adjudication of the claims of the victims.

9.Notwithstanding anything contained in this Act, the policy of Insurance issued before the commencement of the Motor Vehicles (Amendment) Act, 2019, shall be continued on the existing terms under the contract and the provisions of this Act shall apply as if this Act had not been amended by the said Act. The Tribunal has concluded that the rider of the motor cycle did not possess valid driving licence at the relevant point of time, without referring to Section 147(4) of the Act, 2019, has concluded that the insurer shall pay the amount at the first instance and recover the same from the 1st and 2nd respondent. It cannot be disputed that Ex.R5 insurance policy was issued before the Amendment Act.

10.From the perusal of Section 147(4) of the Act, it commences with non- obstante clause. It stipulates that the policy of insurance which was issued prior to 01.04.2022, the provisions of the Act, 1988 would govern the field as if the Act has not been amended and the terms contained in the policy would hold the field, as if this Act had not been amended by the said Act.

11.Based on the above stated observations and discussions, this Civil Miscellaneous Appeal being devoid of merits stands dismissed. No costs.

11-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To.

1.The Motor Accidents Claims Tribunal
Special I Judge
Small Causes Court
Chennai.

R.KALAIMATHI, J.

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