IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-02-2026

CORAM

THE HON'BLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI

CMA No. 317 of 2024
and
CMP No. 3600 of 2024

The Division Manager,
The New India Assurance Company Ltd.,
CSI Building, 2nd Floor,
No.1, Officers Line,
Vellore 632 001.

..Appellant(s)

Vs

1. Chandiran,
   S/o. Kuzhandai,
   No. 106A/164, Kariyamangalam Village,
   Tiruvannamalai Dist.

2. Moorthy,
   S/o. Perumal,
   Ayya Nagar Backery,
   No.13, North Street,
   Swamymalai villlage and post,
   Kumbakonam Taluk,
   Thanjavur District.
   (Amended vide court order dated 01/04/2025
   made in C.M.P.No.7935 of 2025 in C.M.A.
   No.317 of 2024 by SSJ)

..Respondent(s)

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Decree and Judgment dated 20th December 2021 passed in M.C.O.P.No.1413 of 2017 on the file of the learned Special Sub Judge, Motor Accidents Claims Tribunal, Tiruvannamalai.

For Appellant(s): Ms.C. Bhuvanasundari

For Respondent(s): Mr.A.G.F. Terry Chella Raja
for R1

R2 – served – No appearance

Judgment

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company challenging the Award and Decree dated 20.12.2021 passed in M.C.O.P.No.1413 of 2017 by the learned Special Sub Judge, Motor Accident Claims Tribunal, Tiruvannamalai.

2.The case of the claimant is that on 09.06.2017 at about 7.00 a.m., while he was riding his two-wheeler on the Chengam–Tiruvannamalai road near Vinnavanur bus stop, the driver of a Hyundai Eon car bearing Registration No.TN-68-Q-2757 drove the vehicle in a rash and negligent manner and dashed against the claimant's vehicle. Due to the impact of the accident, the claimant sustained grievous injuries including fracture of the right femur and other bodily injuries and underwent treatment in Government Medical College Hospital and private hospitals. Claiming that the accident occurred solely due to the negligence of the driver of the offending vehicle and that he sustained permanent disability, the claimant filed the claim petition seeking compensation of Rs.10,00,000/-.

3.The Tribunal, by the impugned award, granted a total compensation of Rs.3,63,114/- with interest at 7.5% per annum from the date of petition till realization for the injuries sustained by the first respondent/claimant in the road traffic accident.

4.The learned counsel appearing for the appellant Insurance Company would submit that the Award passed by the Motor Accidents Claims Tribunal fixing liability on the appellant is erroneous and contrary to the evidence on record. The Tribunal failed to appreciate that the 2nd respondent, who was driving the car at the time of the accident, did not possess a valid driving licence. The Motor Vehicle Inspection Report clearly records that no driving licence was produced, and the RTO official examined by the appellant also confirmed that no driving licence details were available. Despite such evidence, the Tribunal failed to grant the relief of "Pay and Recovery." The Tribunal further erred in observing that the appellant ought to have examined the RTO of Krishnagiri or Kumbakonam, without considering that the appellant had summoned the RTO who conducted the Motor Vehicle Inspection. The Tribunal also failed to consider that the 2nd respondent had given two different addresses and had not produced any driving licence before the Tribunal. The Tribunal ought to have drawn an adverse inference against the respondents for non-production of the driving licence and should have either ordered Pay and Recovery or at least fixed contributory negligence. Further, the amount awarded towards loss of amenities (Rs.50,000/-) is excessive and not supported by proper evidence. Therefore, the impugned award granting Rs.3,63,114/- is unsustainable and liable to be set aside or modified.

5.The main contention raised by the appellant Insurance Company is that the driver of the offending vehicle did not possess a valid driving licence at the time of the accident. It is seen from the records that the Motor Vehicle Inspection Report records that no driving licence was produced by the driver at the time of inspection. Further, the appellant Insurance Company examined an official from the Regional Transport Office and produced the relevant report showing that no driving licence particulars were available with respect to the driver. Though the Tribunal fixed liability on the Insurance Company, it failed to properly appreciate the above material evidence. When the driver of the offending vehicle failed to produce the driving licence either before the Motor Vehicle Inspector or before the Tribunal, an adverse inference ought to have been drawn that the driver did not possess a valid driving licence at the time of the accident. In such circumstances, there is a clear breach of policy conditions. However, considering the settled position of law laid down by the Hon'ble Supreme Court that even in cases where the driver does not possess a valid driving licence, the Insurance Company cannot completely avoid its liability vis-à-vis third party claimants, the appropriate course would be to direct the Insurance Company to pay the compensation to the claimant in the first instance and thereafter recover the same from the owner of the vehicle. Therefore, while confirming the finding of negligence and the quantum of compensation awarded by the Tribunal, this Court holds that the appellant Insurance Company is entitled to the relief of "Pay and Recover". Accordingly, the compensation awarded to the claimant is as follows:

Sl.No	Head	Amount
1	Permanent Disability (40%)	Rs.2,00,000/-
2	Pain and Suffering	Rs.35,000/-
3	Extra Nourishment	Rs.10,000/-
4	Medical Expenses	Rs.48,114/-
5	Attender Charges	Rs.10,000/-
6	Transportation	Rs.10,000/-
7	Loss of Amenities	Rs.50,000/-
	Total	Rs.3,63,114/

6.Accordingly, this Civil Miscellaneous Appeal is partly allowed. The appellant/Insurance Company is directed to deposit the entire compensation amount of Rs.3,63,114/ with interest @7.5% per annum, less the amount already deposited, with proportionate accrued interest and costs, to the credit of M.C.O.P.No.1413 of 2017 on the file of the learned Special Sub Judge, Motor

Accidents Claims Tribunal, Tiruvannamalai within a period of four weeks from the date of receipt of a copy of this Judgment, if not deposited earlier and thereafter, recover the same from the owner of the offending vehicle. The claimant is not entitled to get interest for the default period. On such deposit, the claimant is permitted to withdraw the entire award amount with proportionate accrued interest and costs by making necessary applications.

The claimant is directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimant. No costs. Consequently, connected Miscellaneous Petition is closed.

26-02-2026

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

MPS

To
1.The Special Sub Judge,
Motor Accidents Claims Tribunal,
Tiruvannamalai.

2.The Section Officer,
V.R. Section,
Madras High Court.

K.GOVINDARAJAN THILAKAVADI J.

MPS

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