IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-03-2026

CORAM

THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

CMA No. 2174 of 2021
and
CMP No.12049 of 2021

The Branch Manager,
New India Assurance Co. Ltd.
Micro Office, 1st Floor,
Liyakath Ali Khan Building,
MC Road, Mulbagal-563131.
Karnataka.

Appellant(s)

Vs.

1. M.Lakshmipathi

2.R.Nagaraj

3.V.Ramesh
(respondents II and III remained exparte before the Lower Court, Notice may be dispensed with)

Respondent(s)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, to set aside the judgment and decree passed in MCOP No.116 of 2015 on 04.07.2019 on the file of the Learned Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Krishnagiri.

For Petitioner (s): Mr.J.Chandran
For Respondent(s): Mr.Mukunth.R.Pandian For R1
R2 & R3 - No appearance

JUDGMENT

(Judgment of the Court was made by C.V.Karthikeyan, J.)

The appeal has been preferred by the Insurance Company who was the third respondent in MCOP No. No.116 of 2015 aggrieved by the judgment dated 04.07.2019 passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Krishnagiri.

2.On 20.11.2014, when one M.Lakshmipathy who was a Student, aged about 21 years, was proceeding in a Motor cycle to Nachikuppam, a Tata Sumo bearing Reg. No.KA-04-N-1349 was driven by its driver rashly and negligently and dashed against the motorcycle causing accident to the said M.Lakshmipathy.

3.The claim petition was contested by the Insurance Company. However, the Tribunal held that the driver was rash and negligent and fixed the negligence on the part of the driver and awarded a sum of Rs.34,53,141/- as compensation. Aggrieved over the same, this appeal has been filed by the Insurance Company.

4.Heard the learned counsel for the appellant and the learned counsel for the first respondent.

5.The only ground raised by the appellant is that there was no insurance policy at the time when the accident occurred and that, subsequent to the accident, a fresh policy had been taken by the family members of the claimant. It was therefore contended that since there was no insurance policy, the appellant cannot be held liable for the claim made by the claimant.

6.In this connection, we had carefully perused the policy which had been produced as Ex.P4. The said insurance policy had been issued on 20.11.2014 at 11:36:08 a.m. and is valid till 19.11.2015 at 11:59:59 p.m. There was no previous policy and therefore, this is a fresh policy taken. The accident occurred on 20.11.2014 at 8.30 a.m. At the time when the accident took place, no insurance policy had been taken and the policy was obtained only subsequently. Therefore, this would not bind the insurance company because the accident had occurred even prior to the policy being issued or even taken by the claimant.

7.The learned Judge had erred in holding that since the time when the policy ends was given as 11:59:59 p.m. on 19.11.2015, it should relate back to 20.11.2014 midnight. But however, the starting point of the policy is the time at which it was issued. It cannot relate back to any other time unless it was a renewal of an existing policy. Here this is a fresh policy. It is also seen that the payment was also made only subsequently on taking the policy.

8.In view of these reasons, we hold that the appellant cannot be made liable for the claim made by the claimant. The claimant is at liberty to work out his remedy against the third respondent, the owner of the vehicle.

9.The appeal stands allowed. The appellant is not required to indemnify the claim and it is the owner of the vehicle who is alone liable for the compensation awarded by the Tribunal. No costs. Consequently, connected miscellaneous petition is also closed. The appellant is entitled for refund of any deposit made together with accrued interest.

(C.V.K.J.,) (K.R.S.J.,)
04-03-2026

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

To
The Motor Accident Claims Tribunal
(Chief Judicial Magistrate Court), Krishnagiri.

C.V.KARTHIKEYAN, J.
AND
K.RAJASEKAR, J.

sli

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