IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-03-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CMA No. 837 of 2020
and CMP No. 5382 of 2020

M/s.ICICI Lombard General
Insurance Company Ltd.,
414, Veer Savarkar Marg,
(Near) Siddhi Vinayagar Temple,
Prabhadevi, Mumbai – 400 025.

..Appellant(s)

Vs.

1. Dhanalakshmi
2. Arunkumar
3. Soundarya
4. Minor Gokul
   S/o. Late Govindaraj
   (minor 4th Respondent Rep By Next Friend/Mother Dhanalakshmi 1st Petitioner Herein).
5. Senniammal
6. Tharalamary

..Respondent(s)

Prayer : This Appeal has been filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 07-03-2016 in M.C.O.P. No. 802 of 2013 on the file of the Motor Accident Claims Tribunal (Additional District Judge) at Krishnagiri.

For Appellant(s): M/s.R.Sree Vidhya

For Respondent(s): Ms.K.Vijayalakshmi
For M/s.Dasi and Viswa Associates
(R1 to R5)
No appearance for R6 (Not ready in notice)

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the judgment and decree dated 07-03-2016 in M.C.O.P. No. 802 of 2013 on the file of the Motor Accident Claims Tribunal (Additional District Judge) at Krishnagiri.

2. The learned counsel for the appellant would submit that the respondents 1 to 5 herein had instituted a Motor Accidents Claim Petition seeking for compensation of Rs.10 lakhs that arose due to the fatal accident involving the vehicle belonging to the 6th respondent, which had been insured with the appellant. She would submit that the 6threspondent/ vehicle owner remained exparte before the Tribunal and the Tribunal placing reliance upon Ex.A3 viz., the insurance policy issued by the appellant had fixed the liability on the appellant to pay the compensation awarded by it. She would further submit that the said insurance policy produced as Ex.P3 was contested by the appellant as being a fraudulent one, as there had been interpolation in the the said policy as produced. Holding that it is the onus on the appellant to substantiate that the policy is the fraudulent policy,that has been produced before the Court, without analysing the reasons that had been raised by the appellant to contend that the said policy is the fraudulent policy had directed payment of the compensation by the appellant.

3. Taking this Court to the policy marked as Ex.P3, she would submit that the alleged policy is claimed to have been issued on 19.07.2011 but it is claimed to have been valid from 02.05.2012 to 01.05.2013. She would submit that the same is the interpolation made and therefore, the policy itself was fake.

4. Further, drawing attention to the other terms of the policy, she would submit the policy was produced that was valid from 19.07.2011, which would expire only in 18.07.2012 and therefore, such a policy had at any rate could not have a validity from 02.05.2012 till 01.05.2013 as reflected in Ex.P3. Therefore, the Court wholly erred in fixing the liability on the appellant. Hence, she seeks indulgence in the orders impugned.

5. Countering her arguments, the learned counsel appearing for the first to fifth respondents would submit that the appellant has not denied issuance of the policy of the 6threspondent's vehicle nor had produced any contrary evidence that the vehicle had not been insured with it. She would further submit that the amount that had already been deposited by the appellant and the appellant cannot be said to be prejudiced. They are permitted to withdraw the said amount with the right to the appellant to recover the same from the 6threspondent. Hence, she prays this Court not to grant any indulgence on the amount awarded.

6. I have considered the submission of the learned counsel appearing on either side. I have also gone through the materials placed on record.

7. Even though it is claimed by the appellant that the Ex.P3 is a forged document, the appellant before the Tribunal had not produced any documents to substantiate the said policy had been given only with the validity till 18.07.2012 nor had attempted to lead in any evidence testing the said policy.

8. The Motor Vehicles' Inspector's report, which had been marked as Ex.R5 would also indicate that the said vehicle had valid insurance policy, which correlates with Ex.P3. No attempt had been made by the appellant before the Trial Court to entirely discredit Ex.P3. However, a perusal of the aforesaid document would indicate that the said policy had been issued on 18.07.2011 and a presumption could be drawn that the policy could not have been issued at a much later date. The appellant having failed to substantiate before the Tribunal of the said fact cannot be allowed to contest that the award itself is bad. The award had been made as early as in the year 2016 and the family of the deceased had been suffering from the loss of dependency that arose due to death of the deceased in the accident.

9. Considering the fact that the appellant, who had deposited the amount are entitled for the recovery of the amount from the 6th respondent as it is the duty of the 6th respondent to substantiate that there was a valid insurance for him to indemnify from the appellant company.

10. The 6th respondent had remained exparte before the Tribunal and also before this Court. In such event, the award stands modified holding that the 6th respondent is liable to pay the award of compensation as awarded by the Tribunal. However, as the appellant had already deposited the award amount into the Court, the respondents are permitted to withdraw the same as apportioned by the Tribunal and the appellant is entitled to recover the same from the 6th respondent with the interest awarded by the Tribunal till the date of its realization.

11. With the above observations, the award stands modified as indicated above. Accordingly, this Civil Miscellaneous Appeal is disposed. Consequently, connected Miscellaneous Petition is closed. No order as to costs.

13-03-2026

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

Maya

K.KUMARESH BABU, J.

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To

The Motor Accident Claims Tribunal
(Additional District Judge) at Krishnagiri.

CMA No. 837 of 2020

Dated : 13-03-2026