



C.M.A(MD)No.1366 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 16.10.2025

Pronounced on : 07.01.2026

CORAM:

THE HONOURABLE MS.JUSTICE R.POORNIMA

C.M.A.(MD)No.1366 of 2009

United India Insurance Company Ltd.,

Branch Office,

M.P.S. Complex, 2nd Floor,

R.F.Road,

Palani – 624 601.

... Appellant/ 2nd Respondent

Vs.

1.P.Thandapani

...1st Respondent / Petitioner

2.P.Ramasamy

...2nd Respondent/ 1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, to set aside the award passed by the Deputy Commissioner for Workmen's Compensation, Dindigul in W.C.No.12 of 2006 dated 30.09.2009 and allow this Civil Miscellaneous Appeal.



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For Appellant : Mr.C.Jawahar Ravindran

For Respondents : Mr.B.Janarth Kumar – for R1

JUDGMENT

The Appellant/2nd Respondent /Insurance Company has filed this Civil Miscellaneous Appeal against the award dated 30.09.2009 passed in W.C.No.12 of 2006 by the Deputy Commissioner for Workmen's Compensation, Dindigul.

2. Brief facts of the petition filed by the petitioner before the Tribunal are as follows:

a) The petitioner was working as a driver under the first respondent. On 13.04.2005 at about 8.15 p.m., at Dharapuram to Karur Road, Near Karmuzhil Natru Pannai, at the relevant time, while discharging duties as a driver, he was driving the vehicle bearing Registration No.TCU-2288, with care and caution proceeding from Dharapuram to Karur Road, Near Karmuzhil Natru Pannai from West to East on the extreme left side of the road with slow speed. At that time, a Tempo 407 Van driven by its driver in a rash and negligent manner came



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from opposite direction from East to West and hit the petitioner vehicle, despite the petitioner having given a hand signal with right hand to the lorry, hit the vehicle of the petitioner and caused the accident. Due to the said accident the petitioner's right hand was completely crushed. He was immediately admitted to the Government Hospital, Dharapuram for treatment and referred to the Government Hospital, Coimbatore, for further treatment. The petitioner underwent surgery and during which his entire right hand was amputated as advised by the medical professional.

b) Due to amputation of his right hand, the petitioner has suffered 100% permanent disability and is unable to continue his work as driver or engage any other gainful employment. He has been physically and mentally affected by quotation and center. Future life has been rendered bleak

c) A case was registered before Dharapuram Police Station in Crime No.337 of 2005 and the same is pending. At the time of accident, he was aged about 26 years. And was earning a sum of Rs. 5,000/- as monthly salary along with a daily Bata of Rs.100/- from the 1st respondent. Since the accident occurred in the course of employment, He claimed a sum of Rs.10,00,000/- towards compensation.



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3. Brief averments contained in the counter filed by the 2nd respondent, are as follows:

(i) The 2nd respondent disputed the claim amount and intended that the claimant who was the driver did not processed a valid driving license. The second respondent, also disputed the claimant's employment, income and injuries sustained.

4. During the trial, on the side of the petitioner, P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P9 were marked. On the side of the 2nd respondent, R.W.1 was examined and Ex.R1 and Ex.R.2 were marked.

5. After hearing the parties, the Tribunal allowed the petition and awarded a sum of Rs.4,04,621/- towards compensation. The Tribunal directed the appellant/2nd respondent/Insurance Company to pay the entire award amount within a period of thirty days.

6. Aggrieved by the said order, the present Civil Miscellaneous Appeal has been filed by the Insurance Company, who is



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the 2nd respondent before the Tribunal against the liability fixed on them on the following among other grounds:

a) That the Labour Commissioner erroneously directed the appellant to pay the compensation, though it was established that at the time of accident, the petitioner/driver did not possess a valid driving license to drive the vehicle on the date of accident.

b) The driving license of the 1st respondent has expired on 31.08.2004 even before the date of accident. But the accident took place on 13.04.2005. Admittedly, the 1st respondent has not renewed the license within 30 days.

c) The quantum of award passed by the Tribunal is erroneous and without any basis and hence, the appellant is not liable to pay the compensation.

Hence, the appellant seeks to set aside the award of the Tribunal and allow the Civil Miscellaneous Appeal.

7. Heard the learned counsel on either side and perused the material available on records.



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8. Now, this Court has to decide the following points for

consideration :

1. Whether the Labour Commissioner is correct in law in directing the insurer to pay the compensation though it was established that the driver/workman did not possess valid driving license to drive the vehicle on the date of accident ?

9.Point No.1 :

In this case, it is proved that the claimant was employed with the first respondent at the time of accident, and the vehicle was registered with the second respondent/appellant and the same was in-force on the date of accident. It is the contention of the appellant is that the claimant's driving license was expired on the date of accident. The driving license of the claimant was produced as Ex.P9 which shows that it was valid up to 31.08.2004. The date of accident is on 13.04.2005. The claimant not produced the renewed driving license. However, it is not proved that the accident occurred due to the negligence driving of the claimant. The FIR (Ex.P1) lodged against the Tempo 407 Van. The first respondent not appeared and filed any counter by disputing the manner



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of accident. Since it is not proved that the accident occurred due to the negligent act of the claimant, under the Employee Compensation Act, 1923 the primary consideration is whether the accident arose out of the course of employment and the claimant proved the employer-employee relationship.

10. Mere expiry of driving license by itself does not absolve the insurer of its statutory liability, unless it is established that the accident occurred only due to the absence of a valid license or that there was a wilful and fundamental breach of the policy condition by the employer. The insurance company failed to prove that the accident occurred due to the improper driving of the claimant.

11. The claimant produced a disability certificate which shows that, his right hand was amputated as a result of the accident, and there is restriction of movement in the right shoulder. Considering the age and income, the trial Court properly assist and awarded compensation. This Court does not find any perversity in the order of the learned Labour Commissioner. Therefore, the Civil Miscellaneous Appeal is not sustainable and liable to be dismissed as devoid of merits.



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Point No.1 is answered accordingly.

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12. In the result, this Civil Miscellaneous Appeal is dismissed and the impugned order passed in W.C.No.12 of 2006, dated 30.09.2009 by the Deputy Commissioner for Workmen's Compensation, Dindigul, is hereby confirmed. It is noted that the award amount has already deposited on 29.10.2009, at the time of filing the appeal, insurance company produced the deposit receipt. Therefore, no further direction is required to be issued to the appellant to deposit the money again. No costs.

07.01.2026

Index : Yes / No
NCC : Yes / No

RM



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To
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1.The Deputy Commissioner for Workmen's Compensation,
Dindigul.

Copy to

1.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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R.POORNIMA, J.

RM

Judgment in
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