



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

**CMA No. 3902 of 2025
C.M.P.No.32966 of 2025**

Kamaraj

..Appellant(s)

Vs

1. Duraisamy

2. M/s.United India Insurance Company Limited,
Branch Office at No.5-B/11,
S.B.I.Upstairs,
Salem Road, Rasipuram,
Namakkal District -637 408.

..Respondent(s)

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, pleaded to prefer the Memorandum of Grounds of Civil Miscellaneous Appeal against the Judgment and decree dated 25.10.2016 in M.C.O.P.No.128 of 2014 on the file of Motor Accidents Claims Tribunal / Chief Judicial Magistrate Court, Namakkal.

For Appellant(s): Mr.Adhi S. Linkesava
For Respondent(s): Mr.D.Venkatachalam for R2

JUDGMENT

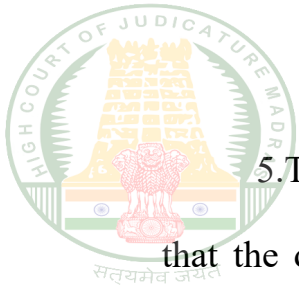
This appeal has been filed by the owner of the vehicle against the award passed by Motor Accidents Claims Tribunal / Chief Judicial Magistrate Court, Namakkal, in M.C.O.P.No.128 of 2014 dated 25.10.2016.



2.The first respondent is the claimant. The claim petition was filed on the ground that on 18.12.2012, the claimant was riding two-wheeler at Kanavaipatti - Pilipakuttai Road and at about 11.00 a.m., the offending vehicle namely mini bus belonging to the appellant was driven in a rash and negligent manner and it dashed on the two-wheeler. As a result of which, the claimant sustained grievous injuries. A First Information Report came to be registered in Cr.No.492 of 2012 as against the driver of the offending vehicle. It is under these circumstances, the claim petition came to be filed before the Tribunal.

3.The appellant did not contest the case and he was set *ex-parte*. The second respondent Insurance Company filed a counter and took a stand that the driver of the offending vehicle did not possess valid license to drive HTV vehicle and therefore there is fundamental breach of the conditions of policy and consequently the Insurance Company is not liable to pay the compensation.

4.The Tribunal on considering the facts and circumstances of the case and on appreciation of evidence came to the conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the offending vehicle.



5. The Tribunal having rendered the above finding, came to the conclusion that the driver of the offending vehicle did not have a valid licence to drive HTV vehicle and therefore applied the principle of pay and recovery.

6. The Tribunal fixed total compensation of Rs.1,89,200/-under the following heads:-

பகுதி 1

பகுதி சம்பாதனை இழப்பு மாதம்	ரூ.4000	ரூ.16000
மருத்துவமனைக்கான போக்குவரத்து செலவு	ரூ.10000	
மருத்துவ பில்களுக்குரிய தொகை	ரூ.48,200	

பகுதி 2

வலி மற்றும் வேதனை	ரூ.55000
நிரந்தர ஊனத்திற்காக 3000 X 20 %	ரூ.60000

மொத்தம் ரூ.1,89,200

7. The above compensation was directed to be paid with interest at the rate of 7.5 % per annum. Aggrieved by the same, the owner of the offending vehicle has filed the present appeal before this Court.

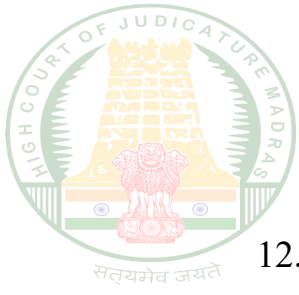


8. Heard the learned counsel for appellant and learned counsel for respondents. This Court has carefully considered the submissions made on either side and also went through the award passed by the Tribunal.

9. The main issue that was raised on the side of the appellant is that even as per the report submitted by the Motor Vehicle Inspector marked as Ex.P3, the vehicle in question was not a HTV vehicle. The report itself makes it clear that the driver of the vehicle possessed valid license for non-transport vehicle upto 13.11.2031 and for transport vehicle upto 11.01.2015. The accident in this case took place on 18.12.2012 at which point of time there was a valid license available for the driver of the offending vehicle.

10. The Tribunal, in this case has assumed that the mini stage carriage is a HTV vehicle. Such assumption is erroneous. This Court in order to satisfy itself went through the copy of the RC book and it is seen that the registered gross vehicle weight was 7550 kg. That only clarifies that the offending vehicle was not a HTV vehicle.

11. In the light of the above discussion the Insurance Company must be held to be liable to pay the compensation under the policy. The Tribunal erroneously applied the principle of pay and recovery which is liable to be interfered by this Court and the same is hereby set aside.



12. In the result, this Civil Miscellaneous Appeal is allowed in the above terms. No costs. Consequently, connected Civil Miscellaneous Petition stands closed.

30-07-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

EP

To:-

The Motor Accidents Claims Tribunal /
Chief Judicial Magistrate Court, Namakkal.



WEB COPY

CMA No. 3902 of 2



N.ANAND VENKATESH, J.

EP

**CMA No. 3902 of 2025
C.M.P.No.32966 of 2025**

30-07-2026