IN THE HIGH COURT OF JUDICATURE AT MADRAS

| Date of Reserving the Judgment | Date of Pronouncing the Judgment |
|---|---|
| **10.12.2025** | **22.01.2026** |

CORAM

**THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN**
**AND**
**THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**CMA No. 2001 of 2025**
**and**
**C.M.P.No.17529 of 2025**

M/s.Liberty General Insurance Ltd.,
Level, V, No.88, GN Chetty Road,
Hindi Prachara Sabha,
T.Nagar, Chennai – 600 017. Appellant/3rd Respondent

Vs

1.Mrs.V.Priya
2.V.Geerthana (Minor)
3.V.Santhanasri (Minor)
4.M.Rajeswari
5.M.Manogar
[Munusamy (owner of the vehicle Died)]
6.P.Usha
7.R.M.Bharathi Respondents
(Amended as per order in M.P.No.04/2024, dated 18.11.2024)

**Prayer:**

Civil Miscellaneous Petition filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in MCOP.No.831 of 2020, dated 21.01.2025, on the file of the Motor Accidents Claims Tribunal, Chief Court of Small Causes, Chennai.

For Appellant(s): Mr.M.B.Raghavan for
M/s.M.B.Gopalan Associates

For Respondent(s): Mr.K.Varadha Kamaraj for RR1 to R5
No Appearance for RR6 & R7

**JUDGMENT**

**(Judgment of the Court was made by K.KUMARESH BABU., J.)**

This Civil Miscellaneous Appeal has been filed against the award dated 21.01.2025 passed in M.C.O.P. No.831 of 2020 by the Principal Small Causes Court, Chennai, wherein compensation was awarded in favour of respondents 1 to 5, who are the legal representatives of the deceased.

2) The facts leading to the filing of the present appeal are that the deceased, M. Vijayakumar, was employed as a worker in C.G. Automatic Water Level Control, Iyanambakkam, Chennai – 600 095, and was earning a monthly income of Rs.12,500/-. On 29.07.2019, the deceased was travelling in a car bearing Registration No. TN 07 AJ 6981 along with his friends. At about 5.30 p.m., near ECR Road, Salavankuppam, the car hit the centre median, lost control, dashed against a vehicle proceeding ahead, overturned, hit an electric post, and subsequently caught fire. The deceased sustained multiple grievous injuries all over the body and succumbed to the same on 03.08.2019.

3) The dependants of the deceased filed a claim petition claiming a

compensation of Rs.49,00,000/- against the owner, driver, insurer, and the wife of the owner of the vehicle, seeking to hold them jointly and severally liable for the accident. Upon consideration of the oral and documentary evidence, the Tribunal awarded a sum of Rs.29,17,500/- as compensation to be paid to the claimants by its order dated 21.01.2025. Aggrieved by the said award, the appellant–Insurance Company has preferred the present appeal.

4) Heard Mr. M.B. Raghavan, learned counsel appearing for M/s. M.B. Gopalan Associates, learned counsel for the appellant–Insurance Company, and Mr. K. Varadha Kamaraj, learned counsel appearing on behalf of respondents 1 to 5.

5) The learned counsel for the appellant submits that the driver of the offending car did not possess a valid driving licence at the time of the accident, which constitutes a clear violation of the terms and conditions of the insurance policy as well as the provisions of the Motor Vehicles Act. It is contended that the Tribunal erred in holding that the appellant failed to prove the absence of a valid driving license on the part of the driver.

6) The learned counsel further submits that the appellant had issued notices to the owner and the driver of the vehicle calling upon them to produce the driving license, which were returned unserved. It is contended that the

return of notice cannot be construed as a failure on the part of the appellant to establish breach of policy conditions. It is further submitted that, by way of abundant caution, notices were issued to the correct address; however, the same were deliberately evaded by the recipients.

7) The learned counsel also submits that the Tribunal failed to draw an adverse inference against the owner of the vehicle, particularly when the notice was admittedly served on the wife of the owner and she deliberately kept herself away from the proceedings. According to the learned counsel, the non-production of the driving license by the owner and driver, despite service of notice, clearly establishes breach of policy conditions, and the Tribunal erred in fastening liability on the appellant–Insurance Company. On the aforesaid grounds, the learned counsel for the appellant prays that this Court may interfere with the award passed by the Tribunal and grant appropriate relief.

8) Per contra, the learned counsel for respondents 1 to 5 submits that the Tribunal has rightly fastened liability on the appellant–Insurance Company, as the appellant failed to prove a willful breach of policy conditions. Mere issuance of notices to the owner or driver, which were returned unserved or allegedly evaded, does not establish absence of a valid driving licence.

9) It is further submitted that the appellant neither examined any official

from the Regional Transport Office nor produced any statutory record to prove that the driver was not holding a valid driving licence at the time of the accident. In the absence of such proof, no adverse inference could be drawn against the owner or his wife for non-appearance. The learned counsel finally submits that the compensation awarded by the Tribunal is just and reasonable and does not warrant interference by this Court. Hence, the appeal is liable to be dismissed.

10) We have considered the submissions of the learned counsel for the respective parties and perused the materials available on record.

11) From the above observation, it is seen that PW2, an independent eyewitness to the accident, has clearly deposed that the accident occurred solely due to the rash and negligent driving of the car driver. This evidence remained uncontroverted, and the appellant failed to rebut it.

12) RW1, examined on behalf of the appellant–Insurance Company, deposed that there was an attempt by the first respondent to swap the driver, as the actual driver was not holding a valid driving licence at the relevant time. Further, Ex.R3, the notice issued to Chandrasekar, the driver of the car, calling upon him to produce the driving licence, was returned with an endorsement stating that both the driver and the owner of the car had died. These facts

establish a breach of policy conditions relating to the driving licence.

13) However, in accordance with the settled principle laid down by the Hon'ble Supreme Court in ***National Insurance Co. Ltd. v. Swaran Singh***, reported in **2004 (3) SCC 297**, even in cases of breach of policy conditions due to disqualification of the driver or absence of a valid licence, the insurer is obliged to indemnify the third-party victims and may thereafter recover the compensation from the insured. Further, arising from the same incident, another Tribunal proceeding in MCOP No.546 of 2019 dated 28.04.2023 has already awarded compensation to the claimants, directing the Insurance Company to pay first and recover from the insured.

14) Applying the ratio in *Swaran Singh* and the consistent approach adopted in the connected proceedings, this Court holds that the appellant–Insurance Company shall pay the awarded compensation to the claimants in the first instance and is entitled to recover the same from respondents 6 and 7, the insured and his legal representatives, in accordance with law.

15) In respect of the quantum of compensation, a joint memo was filed by the appellant and respondents 1 to 5 on 5th December, 2025, stating that respondents 1 to 5 are entitled to Rs.37,50,000/- payable by the appellant, and the same was agreed upon by the respondents 1 to 5. It is further stated that the

appellant has deposited a sum of Rs.42,11,680/- to the credit of MCOP No.831 of 2020 before the MACT, Chief Court of Small Causes, Chennai, and prayed to withdraw the remaining amount.

16) Considering the joint memo of the parties, this Court directs that the compensation shall be disbursed to respondents 1 to 5 as apportioned in the joint memo, and the appellant is permitted to withdraw the remaining sum of Rs.4,61,680/- from the credit of MCOP.

In result, the above appeal is disposed of in terms of the above directions, and the said exercise shall be completed within a period of eight weeks from the date of receipt of the copy of this order. Further, the appellant is at liberty to recover the compensation from respondents 6 and 7 thereafter. Connected miscellaneous petitions are closed. There shall be no order as to costs.

**(C.V.K., J.)** **(K.B., J.)**
**22-01-2026**

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

To

1. Motor Accidents Claims Tribunal,
   Chief Court of Small Causes, Chennai

2. The Section Officer,
   VR Section, High Court,
   Madras.

**C.V.KARTHIKEYAN, J.**
**and**
**K.KUMARESH BABU, J.**

Pbn

**PRE-DELIVERY JUDGMENT**
**IN**
**CMA No. 2001 of 2025**
**and**
**C.M.P.No.17529 of 2025**

**22-01-2026**