



C.M.A.(MD)No.303 of 2009  
& C.R.P.(MD)No.468 of 2009

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Reserved on : 08.07.2026

Pronounced on : 17.07.2026

CORAM:

**THE HON'BLE MR.JUSTICE K.MURALI SHANKAR**

C.M.A.(MD)No.303 of 2009 and C.R.P.(MD)No.468 of 2009  
&  
M.P.(MD)Nos.1 of 2009 and 1 of 2009

**C.M.A.(MD)No.303 of 2009**

The Oriental Insurance Co. Ltd.,  
through its Divisional Manager,  
Office at 24/E/12/A, S.A. High Road,  
Tirunelveli.

... Appellant/  
2<sup>nd</sup> Respondent

Vs.

1.Velammal

2.Minor Esakkiraja

3.Minor Esakkiamma  
(minors 2<sup>nd</sup> and 3<sup>rd</sup> respondents represented by their  
mother and next guardian, 1<sup>st</sup> respondent Velammal)

4.Subbiah

...1-4<sup>th</sup> Respondents/  
1-4<sup>th</sup> Petitioners



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5.Ramesh Raja

... 5<sup>th</sup> Respondent/  
1<sup>st</sup> Respondent

*(5<sup>th</sup> respondent remained exparte before the lower Court)*

**C.R.P.(MD)No.468 of 2009**

The Oriental Insurance Co. Ltd.,  
through its Divisional Manager,  
Office at 24/E/12/A, S.A. High Road,  
Tirunelveli.

... Appellant/  
2<sup>nd</sup> Respondent

Vs.

1.Balasubramanian

... 1<sup>st</sup> Respondent/  
Petitioner

2.Ramesh Raja

... 2<sup>nd</sup> Respondent/  
1<sup>st</sup> Respondent

**Prayer in C.M.A.(MD)No.303 of 2009** : This Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, to set aside the award of Rs.3,68,000/- (Rupees Three Lakhs Sixty Eight Thousand only) passed in M.C.O.P.No.1741/2006, dated 16.10.2008, on the file of the Motor Accidents Claims Tribunal Authority II Additional District Judge, Tirunelveli.

**Prayer in C.R.P.(MD)No.468 of 2009** : This Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the award of Rs.6,000/- (Rupees Six Thousand only) passed in M.C.O.P.No.1871/2006, dated 16.10.2008, on the file of the Motor Accidents Claims Tribunal Authority II Additional District Judge, Tirunelveli.



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For Appellant /  
Petitioner in both  
the cases : Mr.C.Karthik

For Respondents : Mr.T.Selvakumaran  
for R1 to R4 in CMA(MD)No.303/2009  
and R1 in CRP(MD)No.468/2009  
R5 in CMA(MD)No.303/2009 and  
R2 in CRP(MD)No.468/2009 - Exparte

### **COMMON JUDGMENT**

The Civil Miscellaneous Appeal and the Civil Revision Petition are directed against the common order passed in M.C.O.P.Nos.1741 of 2006 and 1871 of 2006 dated 16.10.2008 on the file of the Motor Accident Claims Tribunal / II Additional District Court, Tirunelveli.

2. The appellant and the revision petitioner / Insurer, who was mulcted with liability to pay compensation to the respondents 1 to 4 / claimants / dependants of the deceased Petchi in M.C.O.P.No.1741 of 2006 and the first respondent / injured claimant in M.C.O.P.No.1871 of 2006, challenged the liability fastened on it and also the quantum of compensation awarded at, by the Tribunal.

3. For the sake of convenience and brevity, the parties herein after will be referred to as per their status / ranking in the Tribunal.



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4. At the outset, it is pertinent to mention that four claim petitions came to be filed in M.C.O.P.Nos.1741 of 2006, 1869 of 2006, 1870 of 2006 and 1871 of 2006 and after joint enquiry, the Tribunal passed a common order dated 16.10.2008 holding that the driver of the mini lorry bearing Registration No.TN-72-L-6698 was responsible for the accident, which caused fatal injuries to the deceased Petchi and injuries to the other claimants and awarded compensation. The Insurer has preferred three appeals in C.M.A.(MD)Nos.303 to 305 of 2009 and a civil revision in C.R.P.(MD)No.468 of 2009 and all the matters were listed before the Lok Adalat on 22.04.2018, in which, the appeals in C.M.A.(MD)Nos.304 of 2009 and 305 of 2009 were settled.

5. The learned counsel appearing for the second respondent / insurer would mainly contend that the vehicle involved in the accident is a goods vehicle, that the deceased as well as the injured claimant were travelling as gratuitous passengers, that they were not covered as per the insurance policy under Ex.R1 and that therefore, since the insurer is not liable for the claim, the impugned common award in respect of the above appeal and the civil revision is liable to be set aside.



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6. It is pertinent to note that the second respondent / insurer has not disputed the negligence aspects.

7. The Tribunal, considering the evidence, has come to a finding that the deceased Petchi was travelling in the offending vehicle as a cleaner and the other injured claimant as a loadman.

8. It is pertinent to mention that the Assistant Manager of the Insurance Company examined as R.W.1 admitted that the vehicle of the first respondent is a goods carrying vehicle and it was covered under the package policy and under schedule 'B' of the policy, premium amount towards legal liability to employees has been collected but he would add that the employee would only cover driver and cleaner. The Tribunal, considering the insurance policy under Ex.R1, has specifically observed that under the schedule of premium and under the head of "B" liability, the premium amount towards legal liability to employees was collected and the seating capacity of the vehicle including the driver is mentioned as 3 + 1 and that therefore, there is no restriction with regard to the number of employees covered and came to a finding that the word employee



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would mean the employees other than the driver.

9. It is evident from the records that the injured claimant and other claimants were employed by the first respondent for loading and unloading bricks and were travelling in the lorry as loadmen at the time of accident. As rightly pointed out by the learned counsel appearing for the claimants, additional premium amount was collected by the Insurance Company to cover the legal liability to the employees of the first respondent.

10. Considering the evidence available on record, the Tribunal has come to a finding that the injured claimants were not gratuitous passengers and that when the policy of insurance covers coolies, driver and cleaner, they are liable to pay compensation and the said finding cannot be found fault with.

11. Now turning to the quantum of compensation in C.M.A.(MD) No.303 of 2009 (M.C.O.P.No.1741 of 2006), according to the claimants, the deceased was working as a cleaner and was getting Rs.3,500/- per



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month. The Tribunal, taking note of the postmortem certificate, has fixed the age of the deceased as 30 years and the same was not disputed by the second respondent / insurer. Since the claimants have not produced any evidence to show the income of the deceased, the Tribunal, taking note of the age and the job of the deceased, has fixed the notional monthly income at Rs.2,500/- and after deducting 1/3<sup>rd</sup> of the amount towards personal and living expenses and by applying the multiplier 17, has assessed the loss of dependency at Rs.3,40,000/- and the same cannot be found fault with.

12. The Tribunal has also awarded Rs.4,000/- for funeral expenses and transport to hospital, Rs.10,000/- for loss of consortium to the first claimant, Rs.5,000/- for loss of love and affection, Rs.5,000/- for shock and mental agony, Rs.2,000/- for loss of service and Rs.2,000/- for loss of guidance under the heads then prevailing and awarded total compensation at Rs.3,68,000/-. Admittedly, the claimants have not preferred any appeal or cross-appeal challenging the quantum of compensation. Considering the above, this Court is not inclined to interfere with the compensation awarded at by the Tribunal.



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13. Now turning to the quantum of compensation in C.R.P.(MD)No. 468 of 2009 (M.C.O.P.No.1871 of 2006), according to the claimant, he suffered injuries on his left hand, cut injury on his left knee and other injuries all over his body and was admitted in the hospital as inpatient for one day. But it is evident from Ex.P8 wound certificate that the claimant suffered contusion over left shoulder, abrasion over left shoulder & left knee and contusion in forehead and all the injuries were certified as simple injuries. The Tribunal, taking note of the fact that the claimant has not produced any evidence to show the inpatient treatment, has awarded a sum of Rs.6,000/- as compensation and the said amount cannot said to be excessive. Admittedly, the claimant has not preferred any appeal or cross-appeal challenging the quantum of compensation.

14. Except the above, the Insurer has not canvassed any other reason or ground to impugn the common award. Consequently, this Court concludes that the appeal and the revision are devoid of merits and the same are liable to be dismissed. Considering the other facts and circumstances of the case, this Court further decides that the parties are to be directed to bear their own costs.



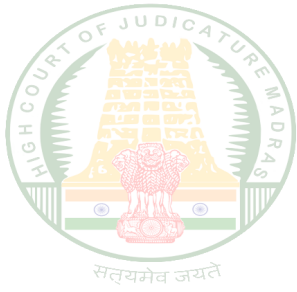
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15. In the result, the Civil Miscellaneous Appeal and the Civil Revision Petition stand dismissed. The Insurer is directed to deposit the award amount with interest from the date of petition till the date of realization excluding the default period, if any, to the credit of M.C.O.P.Nos.1741 of 2006 and 1871 of 2006 on the file of the Motor Accident Claims Tribunal / II Additional District Court, Tirunelveli, after deducting the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants 1 and 4 and the claimants 2 and 3, who have attained majority, in M.C.O.P.No.1741 of 2006 and the claimant in M.C.O.P.No.1871 of 2006 are permitted to withdraw their shares as per apportionment fixed by the Tribunal along with interest and costs. Consequently, connected Miscellaneous Petitions are closed. The parties shall bear their own costs.

**17.07.2026**

NCC :yes/No  
Index :yes/No  
Internet:yes/No  
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& C.R.P. (MD)No.468 of 2009*

**K.MURALI SHANKAR,J.**

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To

- 1.The II Additional District Judge,  
Motor Accident Claims Tribunal,  
Tirunelveli.
- 2.The Record Keeper,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.

**Pre-Delivery Common Judgment made in**

C.M.A.(MD)No.303 of 2009 and C.R.P.(MD)No.468 of 2009  
&  
M.P.(MD)Nos.1 of 2009 and 1 of 2009

Dated : 17.07.2026