



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2016

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

CMA(MD)Nos.1201 to 1214 of 2013

and

M.P(MD)No.1 of 2013(14 Mps)

Navakumar ...1st Appellant in all CMAs.

The Manager,
National Insurance Company Limited,
Kiyanchand Chordia, Cuddalore.

...2nd Appellant in CMA(MD)No.1201/13 & 1204/13

National Insurance Company Limited,
Cudaloor Branch Office,
165, Nethaji Road, 2nd Floor,
Manjakuppam 607 001.

...2nd Appellant in CMA(MD)No.1202/13, 1203/13 &
1205/13 to 1214/13

vs.

1 SENTHIL @ SENTHILKUMAR,
S/O.PALANICHAMY, MIN NAGAR, KOVILLOOR,
VEMBUR VILLAGE, VEDASANDUR TALUK,
NOW RESI. AT CHILNA ANDANKOIL ROAD, KARUR.

2 THE MANAGER,
THE ORIENTAL INSURANCE CO.LTD.,
NO.12A, KOVAI ROAD, KARUR.

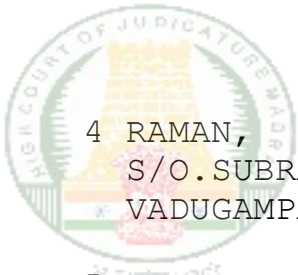
... Respondents in CMA(MD). 1201/ 2013

1 KRISHNASAMY,
S/O.PERUMAL NAICKER, VADUGAMBADIKULAM, PULIYAMPATTY POST,
VEDACHANDUR TALUK, DINDIGUL DISTRICT.

2 MINOR.NAGARAJAN,
S/O.KRISHNASAMY, VADUGAMBADIKULAM, PULIYAMPATTY POST,
VEDACHANDUR TALUK, DINDIGUL DISTRICT.

3 MINOR.JOTHI MURUGAN,
S/O.KRISHNASAMY, VADUGAMBADIKULAM, PULIYAMPATTY PO,
VEDACHANDUR TALUK, DINDIGUL DIST.

(R2 & 3 ARE REP.BY THEIR FATHER & GUARDIAN R1 HEREIN)



4 RAMAN,
S/O.SUBRAMANIA PILLAI, 8/141-A, SUBRAMANIAPILLAIYUR,
VADUGAMPADI, VEDACHANDUR TALUK, DINDIGUL DISTRICT.

5 THE MANAGER,
THE ORIENTAL INSURANCE CO.LTD., NO.12A, KOVAI ROAD, KARUR.
... Respondents in CMA(MD). 1202/ 2013

1 RAJAMMAL,
W/O.(LATE)BALAGURU, IYYAMPATTY, R.VELLODE POST, PALAYAM VIA,
VEDACHANDUR TALUK, DINDIGUL DISTRICT.

2 MINOR.SETHUPATHI,
S/O.(LATE)BALAGURU, IYYAMPATTY,
R.VELLODE POST, PALAYAM VIA, VEDACHANDUR TALUK,
DINDIGUL DISTRICT.

3 MINOR.RAGUPATHI,
S/O.(LATE) BALAGURU, IYYAMPATTY,
R.VELLODE PO, PALAYAM VIA, VEDACHANDUR TALUK,
DINDIGUL DIST.
(R2 & 3 ARE REP.BY THEIR MOTHER & GUARDIAN R1 HEREIN)

4 ELLAMMAL,
W/O.PERUMAL NAICKER, IYYAMPATTY, R.VELLODE POST, PALAYAM VIA,
VEDACHANDUR TALUK, DINDIGUL DISTRICT.

5 PERUMAL NAICKER,
S/O.KUPPA NAICKER, IYYAMPATTY, R.VELLODE POST, PALAYAM VIA,
VEDACHANDUR TALUK, DINDIGUL DISTRICT.

6 RAMAN
S/O.SUBRAMANIA PILLAI, 8/141-A, SUBRAMANIAPILLAIYUR,
VADUGAMPADI, VEDACHANDUR TALUK, DINDIGUL DISTRICT.

7 THE ORIENTAL INSURANCE CO.LTD.,
NO.12A, KOVAI ROAD, KARUR.
... Respondents in CMA(MD). 1203/ 2013

1 RANI,
W/O.(LATE) ARJUNAN,
KAMARAJAPURAM, KARUR.

2 MINOR.PRIYADHARSHINI,
D/O.(LATE)ARJUNAN, KAMARAJAPURAM, KARUR.
(REP.BY HER MOTHER AND GUARDIAN R1 HEREIN)

3 KANNAMMAL,
W/O.THANCAVELL, KAMARAJAPURAM, KARUR.



4 THANGAVEL,
S/O.KARUPPASAMY NADAR, KAMARAJAPURAM, KARUR.

5 THE ORIENTAL INSURANCE CO.LTD., NO.12A, KOVAI ROAD, KARUR.

6 RAMAN
S/O.SUBRAMANIA PILLAI, 8/141-A, SUBRAMANIAPILLAIYUR,
VADUGAMPADI, VEDACHANDUR TALUK, DINDIGUL DISTRICT.
... Respondents in CMA(MD). 1204/ 2013

1 MUTHAMMAL,
W/O.(LATE) SUBBA NAICKER @ RAMASAMY NAICKER, EDAYAPATTY,
R.VELLODE POST, PALAYAM VIA, VEDACHANDUR TALUK,
DINDIGUL DISTRICT.

2 MINOR.RADHAMANI @ RADHA,
D/O.(LATE) SUBBA NAICKER @ RAMASAMY NAICKER, EDAYAPATTY,
R.VELLODE POST, PALAYAM VIA, VEDACHANDUR TALUK,
DINDIGUL DISTRICT.

3 MINOR.VASUDEVAN,
S/O.(LATE) SUBBA NAICKER @ RAMASAMY NAICKER, EDAYAPATTY,
R.VELLODE POST, PALAYAM VIA, VEDACHANDUR TALUK,
DINDIGUL DISTRICT.

(Minors 2 & 3 are Rep.by Mother & Guardian 1st respondent)

4 RAMAN
S/O.SUBRAMANIA PILLAI, 8/141-A, SUBRAMANIAPILLAIYUR,
VADUGAMPADI, VEDACHANDUR TALUK, DINDIGUL DISTRICT.

5 THE ORIENTAL INSURANCE CO.LTD.,
NO.12A, KOVAI ROAD, KARUR.

... Respondents in CMA(MD). 1205/ 2013

1 AMSAVENI @ AMSAVALLI
W/O.(LATE)RAMASAMY @ RAMAKRISHNAN,
IYYAMPATTY,VADUGAMBADI,
R.VELLODE POST,PALAYAM VIA,
VEDACHANDUR TALUK,
DINDIGUL DISTRICT

2 MINOR VARADHARAJAN
S/O.(LATE)RAMASAMY @ RAMAKRISHNAN, IYYAMPATTY,VADUGAMBADI,
R.VELLODE POST,PALAYAM VIA, VEDACHANDUR TK, DINDIGUL DT.
(MINOR REP.BY M & G 1ST RESP.)

3 RAMAN
S/O.SUBRAMANIA PILLAI,

<https://hcservices.ecourts.gov.in/hcservices/>
8/141-A, SUBRAMANIAPILLAIYUR, VADUGAMPADI,VEDACHANDUR TALUK,
DINDIGUL DISTRICT



4 THE ORIENTAL INSURANCE COMPANY LIMITED,
12A, KOVAI ROAD, PLA BUILDINGS,
KARUR -2

... Respondents in CMA(MD). 1206/ 2013

1 SUNDARARAJU

S/O.SRINIVASA NAICKER,GURUVAPPA
NAICKENoor, SRI RAMAPURAM POST,
OTTANCHATHIRAM TALUK,
DINDIGUL DISTRICT

2 NARAYANAN

S/O.GOVINDA GOUNDER, RAMANATHAPURAM,
PILLUR POST, VILLUPURAM TALUK

3 RAMAN

S/O.SUBRAMANIA PILLAI,
8/141-A, SUBRAMANIAPILLAIYUR, VADUGAMPADI, VEDACHANDUR TALUK,
DINDIGUL DISTRICT

4 THE ORIENTAL INSURANCE COMPANY LIMITED,
12A,KOVAI ROAD, PLA BUILDINGS,
KARUR -2

... Respondents in CMA(MD). 1207/ 2013

1 KANNAMMAL

W/O.GURUSAMY, AYYAKANNOOR,
KUJILYAMPARAI,
VEDACHANDUR TALUK,
DINDIGUL DISTRICT

2 NARAYANAN

S/O.GOVINDA GOUNDER, RAMANATHAPURAM, PILLUR POST,
VILLUPURAM TALUK.

3 RAMAN

S/O.SUBRAMANIA PILLAI,
8/141-A, SUBRAMANIAPILLAIYUR, VADUGAMPADI,
VEDACHANDUR TALUK,
DINDIGUL DISTRICT

4 THE ORIENTAL INSURANCE COMPANY LIMITED,
12A,KOVAI ROAD, PLA BUILDINGS,
KARUR -2

... Respondents in CMA(MD). 1208/ 2013

1 NATARAJAN

S/O.VENGIDUSAMY NAICKER,
SUBRAMANIAPILLAIYUR,
VADUGAMBADI POST,
VEDACHANDUR TALUK,
DINDIGUL DISTRICT



2 NARAYANAN
S/O.GOVINDA GOUNDER,
RAMANATHAPURAM,PILLUR POST,
VILLUPURAM TALUK

WEB COPY

3 RAMAN
S/O.SUBRAMANIA PILLAI,
8/141-A, SUBRAMANIAPILLAIYUR,
VADUGAMPADI,VEDACHANDUR TALUK,
DINDIGUL DISTRICT

4 THE ORIENTAL INSURANCE COMPANY LIMITED,
12A, KOVAI ROAD, PLA BUILDINGS,
KARUR -2

... Respondents in CMA(MD). 1209/ 2013

1 MINOR BANUPRIYA,
D/O.SUNDARRAJ
(REP.BY HER M & G MANIMEGALAI)
GURUVAPPA NAICKANOOR,SRI RAMAPURAM POST,
OTTANCHATHIRAM TALUK.,
DINDIGUL DISTRICT

2 NARAYANAN
S/O.GOVINDA GOUNDER,
RAMANATHAPURAM,
PILLUR POST,
VILLUPURAM TALUK

3 RAMAN
S/O.SUBRAMANIA PILLAI,
8/141-A, SUBRAMANIAPILLAIYUR,
VADUGAMPADI,VEDACHANDUR TALUK,
DINDIGUL DISTRICT

4 THE ORIENTAL INSURANCE COMPANY LIMITED,
12A,KOVAI ROAD, PLA BUILDINGS,
KARUR -2

... Respondents in CMA(MD). 1210/ 2013

1 NATARAJAN
S/O. VENKIDUSAMY NAICKER, SUBRAMANIAPILLAIYUR, VADUGAMBADI,
VEDACHANDUR TALUK, DINDIGUL DISTRICT

2 BALAGURU
S/O. VENKIDUSAMY NAICKER, SUBRAMANIAPILLAIYUR, VADUGAMBADI,
VEDACHANDUR TALUK, DINDIGUL DISTRICT



3 MANIMEGALAI
W/O. SUNDARRAJ, GURUVAPPANAICKAENoor, DINDIGUL DISTRICT

4 NARAYANAN
S/O. GOVINDA GOUNDER, RAMANATHAPURAM, PILLUR POST,
VILLUPURAM TALUK

5 RAMAN
S/O. SUBRAMANIA PILLAI, 8/141-A, SUBRAMANIAPILLAIYUR,
VADUGAMBADI, VEDASANTHUR TALUK, DINDIGUL DISTRICT

6 THE ORIENTAL INSURANCE COMPANY LTD.,
NO.12A, KOVAI ROAD, PLA BUILDINGS, KARUR - 639 002
... Respondent(s) in CMA(MD). 1211/ 2013

1 NATARAJAN
S/O. VENKIDUSAMY NAICKER, SUBRAMANIAPILLAIYUR, VADUGAMBADI,
VEDACHANDUR TALUK, DINDIGUL DISTRICT

2 BALAGURU
S/O. VENKIDUSAMY NAICKER, SUBRAMANIAPILLAIYUR, VADUGAMBADI,
VEDACHANDUR TALUK, DINDIGUL DISTRICT

3 MANIMEGALAI
W/O. SUNDARRAJ, GURUVAPPANAICKAENoor, DINDIGUL DISTRICT

4 NARAYANAN
S/O. GOVINDA GOUNDER, RAMANATHAPURAM,
PILLUR POST, VILLUPURAM TALUK

5 RAMAN
S/O. SUBRAMANIA PILLAI, 8/141-A,
SUBRAMANIAPILLAIYUR, VADUGAMBADI, VEDASANTHUR TALUK,
DINDIGUL DISTRICT

6 THE ORIENTAL INSURANCE COMPANY LTD.,
NO.12A, KOVAI ROAD, PLA BUILDINGS, KARUR - 639 002
... Respondents in CMA(MD). 1212/ 2013

1 BALAGURU
S/O. VENKIDUSAMY NAICKER, SUBRAMANIAPILLAIYUR, VADUGAMBADI,
VEDACHANDUR TALUK, DINDIGUL DISTRICT

2 NARAYANAN
S/O. GOVINDA GOUNDER, RAMANATHAPURAM,
PILLUR POST, VILLUPURAM TALUK

3 RAMAN
S/O. SUBRAMANIA PILLAI, 8/141-A, SUBRAMANIAPILLAIYUR,
VADUGAMBADI, VEDASANTHUR TALUK, DINDIGUL DISTRICT



4 THE ORIENTAL INSURANCE COMPANY LTD.,
NO.12A, KOVAI ROAD, PLA BUILDINGS, KARUR - 639 002
... Respondents in CMA(MD). 1213/ 2013

1 MANIMEGALAI
W/O. SUNDARARAJ, GURUVAPPANAICKANOOR, DINDIGUL DISTRICT

2 NARAYANAN
S/O. GOVINDA GOUNDER, RAMANATHAPURAM,
PILLUR POST, VILLUPURAM TALUK

3 RAMAN
S/O. SUBRAMANIA PILLAI, 8/141-A,
SUBRAMANIAPILLAIYUR, VADUGAMBADI, VEDASANTHUR TALUK,
DINDIGUL DISTRICT

4 THE ORIENTAL INSURANCE COMPANY LTD.,
NO.12A, KOVAI ROAD, PLA BUILDINGS, KARUR - 639 002
... Respondents in CMA(MD). 1214/ 2013

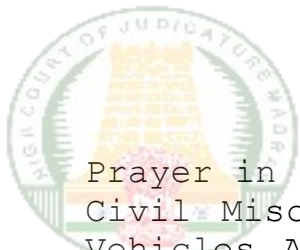
Prayer in CMA(MD). 1201/ 2013 :
Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the order and decree dated 28.02.2005 passed in MACOP No.471 of 2002 on the file of the MACT, CJM Court, Karur to allow this appeal and render justice.

Prayer in CMA(MD). 1202/ 2013 :
Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the order and decree dated 28.02.2005 passed in MACOP No.529 of 2002 on the file of the MACT, CJM Court, Karur to allow this appeal and render justice.

Prayer in CMA(MD). 1203/ 2013 :
Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the order and decree dated 28.02.2005 passed in MACOP No.571 of 2002 on the file of the MACT, CJM Court, Karur to allow this appeal and render justice.

Prayer in CMA(MD). 1204/ 2013 :
Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the order and decree dated 28.02.2005 passed in MACOP No.577 of 2002 on the file of the MACT, CJM Court, Karur to allow this appeal and render justice.

Prayer in CMA(MD). 1205/ 2013 :
Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the order and decree dated 28.02.2005 passed in MACOP No.584 of 2002 on the file of the MACT, CJM Court, Karur to allow this appeal and render justice.



Prayer in CMA(MD). 1206/ 2013 :

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to Set aside the order and decree dated 28/02/2005 passed in MACOP No.591/2002 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Karur to allow this CMA(MD) No.1206/2013.

Prayer in CMA(MD). 1207/ 2013 :

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to Set aside the order and decree dated 28/02/2005 passed in MACOP No.9/2003 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Karur to allow this CMA(MD) No.1207/2013.

Prayer in CMA(MD). 1208/ 2013 :

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to Set aside the order and decree dated 28/02/2005 passed in MACOP No.10/2003 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Karur to allow this CMA(MD) No.1208/2013.

Prayer in CMA(MD). 1209/ 2013 :

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to Set aside the order and decree dated 28/02/2005 passed in MACOP No.11/2003 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Karur to allow this CMA(MD) No.1209/2013.

Prayer in CMA(MD). 1210/ 2013 :

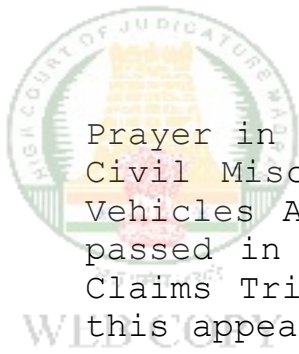
Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to Set aside the order and decree dated 28/02/2005 passed in MACOP No.12/2003 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Karur to allow this CMA(MD) No.1210/2013.

Prayer in CMA(MD). 1211/ 2013 :

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the order and decree dated 28.02.2005 passed in MACOP.No.13 of 2003 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Court, Karur, to allow this appeal

Prayer in CMA(MD). 1212/ 2013 :

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the order and decree dated 28.02.2005 passed in MACOP.No.14 of 2003 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Karur, to allow this appeal.



Prayer in CMA(MD). 1213/ 2013 :

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the order and decree dated 28.02.2005 passed in MACOP.No.15 of 2003 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Karur, to allow this appeal.

Prayer in CMA(MD). 1214/ 2013 :

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the order and decree dated 28.02.2005 passed in MACOP.No.16 of 2003 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Karur, to allow this appeal.

For Appellant(in all CMAs) : Mr.J.S.Murali for
Mr.S.Ramachandran

For Respondent/

Oriental Insurance Company : Mr.C.Ramachandran

For Respondents 1 to 3 in CMA.1202/13

1 to 5 in CMA.1203/13

1 to 3 in CMA.1205/13

1 to 2 in CMA.1206/13: Mr.S.SivaThilagar

COMMON JUDGMENT

The unfortunate accident took place on 27.02.2002 on Karur to Erode main road. There are fatal and injuries caused due to the accident and the heirs of the deceased and the injured claimants filed their respective applications before the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Karur, seeking compensation and the Tribunal, considering the facts and circumstances awarded compensation to the claimants. Challenging the award passed by the Tribunal, these batch of appeals are jointly filed by the owner of the Lorry which met with the accident and its insurer/National Insurance Company Limited.

2.It is the contention of the appellant/National Insurance Company Limited that the Tribunal has committed an error in fixing 100% liability on the appellant insurance company and 50% liability ought to have been imposed on the Oriental Insurance Company Limited with whom, the Van met with the accident was insured. In fact, the claimants had travelled in the Van, which was insured with the Oriental Insurance Company.

3.The learned counsel for the appellants further contended that the Tribunal ought to have considered the rough sketch produced by the investigating officer, marked as a document before the Tribunal, which shows that the accident occurred on the middle of the road and therefore, 50% liability ought to have been imposed on the Oriental Insurance Company Limited.



4. Learned counsel for the respondent/Oriental Insurance Company Limited opposed the appeals, by stating that it is a case where all the victims were travelling in the Van and the Lorry which was insured with the appellant National Insurance Company coming in the opposite side dashed with the Van and the Van was capsized and consequently, some of the victims got injured and some died. Therefore, the liability cannot be fixed on the driver of the Van, because the driver of the Van had not committed any act of negligence. It is further contended that FIR was registered only against the driver of the Lorry, which was insured with the appellant National Insurance Company Limited. Therefore, no liability can be fixed on the Oriental Insurance Company Limited. Further, on reading of the findings of the Tribunal, it is clear some of the injured witnesses categorically deposed that the driver of the Lorry was at fault. The Tribunal also found that the Lorry driver was at fault and there is no fault on the side of the driver of the Van. Hence, no liability can be fixed on the respondent Oriental Insurance Company Limited.

5. In view of the facts and circumstances, this Court is of the view that the findings of the Tribunal is in order and there is no infirmity or error on record. Such being the position, this Court is not inclined to consider the grounds of appeal raised by the appellant in all these appeals.

6. The counsel for the appellants further argued on the point of quantum and this Court finds no reason to interfere with the quantum of compensation awarded by the Tribunal, in view of the fact that on account of this accident, some persons died and some got injured seriously.

7. In view of this factual situation, the award passed by the Tribunal in all these cases, are confirmed and the appellant insurance company is directed to deposit the entire award amount in all these cases with proportionate accrued interest and costs to the credit of the claim petitions, within a period of four weeks from the date of receipt of the copy of this judgment, if not deposited already. On such deposit, the major claimants in all the cases, are permitted to withdraw their respective shares as apportioned by the Tribunal, with proportionate accrued interest and costs, less the amount already withdrawn, if any, through RTGS, by filing necessary applications before the Tribunal. Insofar as the minor claimants are concerned, their respective shares as apportioned by the Tribunal with proportionate accrued interest and costs, shall be deposited in a Nationalised Bank in Fixed Deposit till they attain majority. On attainment of majority, it is for such minor claimants to approach the Tribunal concerned, for withdrawal of their shares, by making necessary applications.



In the result, all the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, M.P(MD)No.1 of 2013(14 Mps) are closed.

WEB COPY

Sd/-
Assistant Registrar(CS I)
/True Copy/

Sub Assistant Registrar

To
The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Karur.

+14cc to Mr.J.S.Murali, Advocate Sr.No.72523 to 72536
+4 cc to Mr.S.Sivathilagar, Advocate Sr.No.72215 to 72218
+1cc to Mr.C.Ramachandran, Advocate SR.No.72396

nbi
SM:BS:21.02.2017:11p/21c

CMA (MD) Nos.1201 to 1214 of 2013
22.11.2016