IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2019

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl. O.P. No. 5922 of 2018

Cholamandalam MS General Insurance Company Limited
Legal Department
Shaw Wallace Building, 2nd Floor
Old No.154, New No.319
Thambu Chetty Street
Chennai - 600 001 Petitioner

vs.

1. The Director General of Police
Tamil Nadu Police Head Quarters
Santhome, Chennai - 600 004

2. The Superintendent of Police
Office of the Superintendent of Police
Thayarkullam, Kanchipuram
Tamil Nadu - 631 501

3. The Superintendent of Police
District Crime Branch
Kanchipuram, Kanchipuram District

4. The Inspector of Police
Somangalam Police Station
Kanchipuram District

5. The Inspector of Police
TIW – TIW, Chromepet Police Station
Chennai TIW, South

6. M. Sasikala,
W/o. Late Mohan

7. M. Kabilraj,
S/o. Late Mohan

8. M. Rajasekar, S/o. Late Mohan
No.1323, Vasantha Nagar
Nadukuthagai, Thirunindravur-602 024
(Claimants in MCOP No.45/2017
MACT, Vellore and
MCOP No.2730/2016,
MACT, Chennai and
MCOP No.4614/2017, MACT, Chennai)

9. A. Narayanan, S/o. Adhimoolam,
C/o. D.J. Minerals Pvt. Ltd.,
No.15, EdaiyankodumanThangal,
Pulipakkam Post, Chengalpat Taluk,
Tamil Nadu-603 002
(alleged driver of lorry TN 19 AA 2682)

10. D.J. Minerals Pvt. Ltd.,
No.15, EdaiyankodumanThangal,
Pulipakkam Post, Chengalpat Taluk,
Tamil Nadu- 603 002

11 The Bar Council of Tamil Nadu & Puducherry
Madras High Court Buildings
Chennai 600 104
(R11 impleaded as per order dated 27.06.2018)

12 Stephen
S/o.Selvaraj,
No.5/42, 3rd Street, Karunanidhi Nagar,
Thondiarpet, Chennai 600 081. ... Respondents

(12th Respondent impleaded as per order dated 03.07.18)

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to direct the respondents 1 to 3 to conduct necessary re-investigation in accordance with law on FIR No.59/2017, on the file of the fourth respondent herein in terms of the complaint dated 25.11.2017 sent by the petitioner herein to the second respondent herein and punish all persons guilty of serious cognizable offences as made out in the complaint dated 25.11.2017.

	For petitioner	Mr. N. Vijayaraghavan
	For State	Mr.C.Emalias, Addl. Adv. Gen. assisted by Kritikaa Kamal Mr. G. Ramar (Govt. Adv.)
They are not parties to the list still, they have been shown since Judge directed so.	For M. Jeevanandham	Dr.G. Babu
	For V. Velu	Mr.V.J. Arulraj
	For Ramaa Radhakrishnan	Mr. R. Sunil Kumar
	For N. Azhakiyakumaran	Mr. N. Damodaran
	For N. Shankar	Mr. V. Raghavachari
	For S. Natarajan	Mr. N. Manokaran
	For M. Sivamani	Mr. R. Sreedhar
	For United India Insurance Co. Ltd. & National Insurance Co. Ltd.	Mr. S. Arunkumar
	For Oriental Insurance Co. Ltd. & New India Assurance Co. Ltd	Mr. S. Manohar

ORDER

PROLOGUE:

For the record, it all began with Crl.O.P.No.18110 of 2016 in Cholamandalam MS General Insurance Co. Ltd. vs. Inspector of Police. That was a case filed by the insurer seeking re-investigation of a motor accident claim, alleging false implication of an insured vehicle, vide order dated 22.12.2009 of this Court made in National Insurance Co. Ltd., vs. The Director, CBI. In the course of the said proceedings, it was brought to the notice of this Court that by order dated 13.05.2016 in Jaiprakash vs. National Insurance Co Ltd., the

Supreme Court of India had directed implementation of Agreed Procedure and Detailed Accident Report (DAR) regime, pan India. This was picked up by the Supreme Court from a verdict of Rajesh Tyagi vs. Jaibir of Justice J.R. Midha, Delhi High Court, who is the author and mother of these innovations to streamline the vexed motor accidents claims jurisdiction, for the better benefit of innocent accident victims. In Jaiprakash (supra), the Supreme Court had directed all the States to implement the DAR regime, in vogue in Delhi alone then, and directed the Registrars General of all the High Courts and the Directors General of Police to take note and go forward.

2. This Court considered it a duty to carry it forward as law of the land under Article 141 of the Constitution of India. It ordered notice to the Office of the Director General of Police, who to their lasting credit, readily responded and offered their fullest cooperation. It was noted that already the State Crime Records Bureau (S.C.R.B.), Chennai, under the effective stewardship of the Additional Director General of Police Ms. Seema Agarwal, with the able assistance of Ms.B.Shridevi, now Additional Superintendent of Police, was developing a digital platform on the CCTNS network for the Tamil Nadu Police website. Not merely the matter of uploading FIR, but they were exploring the possibility of uploading all related documents relating to motor accidents claims as well, for access to all stakeholders.

3. Tapping into this providential possibility, this Court found that the DAR regime could be implemented in Tamil Nadu as a pioneer, on the digital platform, as technology was the way to go. The Office of the Director General of Police, Tamil Nadu and the S.C.R.B., Chennai, readily and willingly fell in line and the DAR regime went upstream on online route on and from 01.03.2017. This was captured by this Court in its order dated 12.09.2017 and thus began the DAR regime in its digital avatar, a first of its kind in India, and ever since, serving the cause of all stakeholders in Tamil Nadu. Be it the unfortunate lot of accident victims or claimants, or the insurance companies, the Transport Corporations, or all Claims Tribunals in the State, and even Legal Service Authorities, the DAR regime has come as manna from heaven. The traumatized victims and their families are able to tuck into the digital platform, with a click of the mouse or flick of the keyboard on their mobiles. The DAR regime has been implemented in Tamil Nadu as of 01.03.2017 and statistics captured in this order, vindicate its efficacy.

4. The Tabular Statement below from the S.C.R.B., Chennai, stands as mute testimony for the usefulness of the DAR regime in Tamil Nadu.

TABULAR STATEMENT FROM THE SCRB

RTA CASES DETAILS FROM 01.03.2017 TO 01.08.2019		
S.No.	Detail	Total
1.	NO OF FIR REGISTERED (RTA CASES)	1,54,171
2.	NO OF RTA CASES CHARGE SHEETED	1,16,942
3.	NO OF INSURANCE COMPANIES REGISTERED	18
4.	AMOUNT DEPOSITED BY INSURANCE COMPANIES	Rs. 84,55,400
5.	NO OF DOCUMENTS DOWNLOADED BY INSURANCE COMPANIES	76,117
6.	TOTAL NO OF CASES SETTLED BY INSURANCE COMPANIES	992
7.	AMOUNT SETTLED BY INSURANCE COMPANIE	Rs. 18,13,39,994/-
8.	NO OF DOCUMENTS DOWNLOADED BY VICTIMS	35,224
9.	NO OF DOCUMENTS DOWNLOADED BY LEGAL AUTHORITIES	NIL
10.	NO OF DOCUMENTS DOWNLOADED BY TRANSPORT AUTHORITIES	3808

5. The DAR regime is well and truly entrenched now. The implementation of the DAR regime has been huge and welcome relief to stakeholders and now that the teething glitches may be dissipating, its impact could make a huge difference to this welfare jurisdiction, intended to provide succour and relief to the innocent victims and expeditiously at that. The mandate of the Supreme Court in Jaiprakash (supra) on the implementation of the DAR regime, has become a reality in Tamil Nadu. It is an online platform and thus become a pioneer of its kind. Hope and trust the stakeholders fully understand its role and utilise the benefits on offer, wholeheartedly.

TERMS OF REFERENCE TO THE EXPERT BODY:

6. This Prologue is necessitated for this purpose. It was the implementation of the DAR regime in Tamil Nadu, on and from 01.03.2017 that exposed the muck thus far known to exist and thriving as an underbelly. The petitioner insurer was confronted by 3 separate and independent motor accident claims for the death of one person viz., Mohan, two in Chennai and one in Thiruvallur, totaling more than a crore of rupees in all. It was further noticed that the FIR may have been tampered with, to falsely implicate an insured lorry. The DAR

platform revealed that the details of an earlier accident involving the same lorry were deviously deployed by mischief makers, which included a tout or a broker masquerading as an advocate clerk too, one Stephen.

7. Then began the search by insurer for similar double/duplicate or as in this instance, triple claims too, for the same victim. They came up with 353 MCOPs of such genre, associated with just 5 private insurers out of 19 licensed motor insurers in Tamil Nadu, including 4 Public Sector entities. The matter was referred to the CB-CID as sought by the insurer. Devastating facts tumbled out on the nefarious practices in this beneficial jurisdiction, tarnishing the very purity of administration of justice. The conscience of this Court was shocked and, on an application filed by the insurer, by order dated 19.07.2018, Justice K. Chandru (Retd.) was appointed as the Expert Body with specific Terms of Reference as follows.

"TERMS OF REFERENCE:

> i. To examine if duplicate claims in respect of the same accident are a widespread phenomenon in this State and reveal the absence of knowledge of how their own claims are pursued and who their counsel are. If so, is there any evidence to suggest that briefs are sold to counsel for monetary consideration?
>
> ii. To suggest means of securing better access to information regarding motor accidents by automatic uploading of information regarding registration of FIR and all relevant records that will have a bearing on the consideration of claims before the Motor Accident Claims Tribunals;
>
> iii. To suggest ways to promote settlement culture in the responses of Insurance Companies towards claims for compensation arising out of motor accidents and voluntary deposit of compensation amounts with Tribunals to obviate the need to litigate and delay the realisation of compensation;
>
> iv. To devise ways of elimination of middlemen and ensure in-built mechanism for making the compensation easily available to the family of the victim of a road accident,

such as annuity scheme worked out through arrangement with banks;

v. To suggest proforma for application that could help Motor Accident Claims Tribunals to elicit the requisite details for processing claims with minimal needs for oral evidence;

vi. To prepare templates for shorter judgments and quicker disposal with just adequate details with standardized formats for death and injury cases respectively”

FINAL REPORT OF THE EXPERT BODY:

8. It is in culmination or in response to this referred mandate that the Expert Body - Justice K. Chandru (Retd.), has filed his final report dated 05.08.2019, with his customary meticulous care and erudite examination and bringing to the fore, all his dexterity and experience, as lawyer and Judge. He had earlier filed four Interim Reports dated 04.10.2018, 25.10.2018, 09.01.2019 and 22.01.2019 and pursuant to the same, proceedings went on in this case. Show cause notices were issued to 7 advocate practitioners in this jurisdiction. After affording opportunity to them and being heard at length, orders were passed on 11.06.2019, by this Court directing disciplinary proceedings against the select seven practitioners by the Bar Council of Tamil Nadu and Puducherry (BCTNP) and compliance report is awaited by 01.11.2019. To put things in perspective, it may suffice to extract a Tabular Statement disclosing that 276 motor accident claim petitions worth Rs.48,22,93,000/- stood withdrawn, thanks to the efforts of the Expert Body and the pendency of these proceedings. It was with great difficulty Mr. Justice K Chandru (Retd.) was able to obtain the information from the Insurers, who had to be goaded into collating the information. It is eminently possible, considering the pendency of thousands of claims throughout Tamil Nadu, the data may only reflect the tip of the iceberg. But that itself vindicates the appointment of the Expert Body and its efforts.

S. No.	Insurer	Count of MCOP	Claim Amount
1	Bajaj Allianz General Insurance Company Ltd.	43	6,76,90,000
2	Bharti AXA General Insurance Company Limited	1	15,00,000
3	Cholamandalam MS General Insurance Company Limited	57	11,12,00,000

4	Future General General Insurance Company Ltd.	No Detail to Furnish	No Detail to Furnish
5	HDFC ERGO General Insurance Company Ltd.	14	2,53,00,000
6	ICICI Lombard General Insurance Company Ltd.	21	3,46,00,000
7	IFFCO Tokio General Insurance Company Ltd.	9	4,50,000
8	Liberty Videocon General Insurance Company Limited	No Detail to Furnish	No Detail to Furnish
9	Magma HDI General Insurance Company Limited	1	5,70,000
10	National Insurance Company Limited	12	2,51,35,000
11	Reliance General Insurance Company Limited	No Reply	No Reply
12	Royal Sundaram General Insurance Company Limited	16	4,87,50,000
13	SBI General Insurance Company Limited	No Detail to Furnish	No Detail to Furnish
14	Shriram General Insurance Company Limited	64	9,95,81,000
15	TATA AIG General Insurance Company Limited	6	72,00,000
16	The New India Assurance Company Limited	No Reply	No Reply
17	The Oriental Insurance Company Limited	22	3,88,17,000
18	United India Insurance Company Limited	10	2,15,00,000
19	Universal Sompo General Insurance Company Limited	No Detail to Furnish	No Detail to Furnish
Grand Total		276	48,22,93,000

CIRCULARS ISSUED:

9. Thus far, this Court has seen a Circular dated 29.08.2018 issued by the Registrar General of this Court to all the Claims Tribunals to ensure physical and personal filing of MCOPs by the claimants, along with an affidavit that no other claim was filed, to ensure avoidance of duplication, a menace seriously afflicting this jurisdiction. Just look at what the

Expert Body has collated, compiled and found. And it says, it may be the tip of the iceberg. It boggles the mind that so much money rides in this welfare jurisdiction, in the name of just compensation to accident victims and so much injustice is being perpetrated by the practitioners, in tandem with touts and brokers, with not so little complicity from police and hospital administrations and even ambulance services and drivers. It is truly staggering that the exposure by the Expert Body in all its reports, has been going on without even a semblance of an attempt at redressal. The practitioners have been one up and ahead of any sort of policing. That only a few of them have been hauled up or have faced the music does not augur well for the disciplinary jurisdiction of the BCTNP. The Expert Body has nailed them with facts, figures, records, documents, not the least from the letters and sworn affidavits of practitioners themselves. Hope and trust the BCTNP would be seen to be proactive to cleanse the muck that so rudely stares us from the reports of the Expert Body and goings on in these proceedings.

CRIMINAL PROCEEDINGS

10. In addition, apart from the complaint to the CB-CID in Cr. 1/18, (Metro) Chennai, relating to the alleged tampering with FIR No.59/2017 on the file of Somangalam Police Station, the tragic case of 56 missing MCOP bundles from the Claims Tribunals in Chennai, within this Court's compound itself, was referred to CB-CID in Cr. No.5/2018. And a further Cr. No.4/2019, District Crime Branch, Vellore was also noted in relation to alleged fabrication of medical records by a private insurer. These separate references are pending logical conclusion. It may suffice to direct the respective prosecution agencies to take these criminal investigations to their logical conclusions and file the result of the same, as compliance reports, with the Registry of this Court, as expeditiously as may be permissible in the circumstances of the cases.

APPROACH OF THIS COURT:

11. Be that as it may, Justice K. Chandru (Retd.) as the Expert Body, with the able assistance from a Junior Advocate in Mr. J. Narayanasamy and Liaison Officer in Mr. P. Premanand, an enthusiastic official with the petitioner insurer, has turned out as comprehensive a report as one anticipated from this conscientious Judge. The Report radiates with diligence, dedication and illuminating analysis. Painstakingly and laboriously, the Expert Body has compiled and collated the gathered materials from correspondences with claimants, advocates, insurance companies and Claims Tribunals too, and deciphered the contained content and submitted a report for posterity, one would unhesitatingly opine. Kudos are due to the

retired Judge and his small team. This Court and the purity of this jurisdiction owe a huge sense of gratitude to the Expert Body for its service. It is fervently hoped that the powers that be would do well to take this service on a platter and come up with measures to cleanse the dirt from this critical jurisdiction and change the face of it, for the lasting benefit of all the stakeholders. Too much has gone wrong for too long and the final report of the Expert Body dated 05.08.2019 should be latched on to by the State of Tamil Nadu and it is requested the learned Advocate General may take personal interest and see that the Report's findings are implemented on the ground in a manner befitting its credibility. This Court is not inclined to give any specific directions with regard to all the findings or recommendations, except those specifically taken note of. The findings and recommendations may need a serious study and it is for the State to take a call and ensure that justice reaches the innocent motor accidents victims. But, it is requested and hoped that the State of Tamil Nadu will give the findings in the Expert Body's Report/s and come up with appropriate solutions, be it by way of Government Orders or changes in the relevant Rules or Notifications or Circulars, or even statutory changes, or whatever they deem fit and proper to carry out the intentions in the Reports of the Expert Body and desire of this Court.

MOTOR ACCIDENTS CLAIMS ANNUITY DEPOSIT(MACAD) SCHEME:

12. Out of the 6 specific Terms of Reference, one became a fait accompli as the Expert Body has gracefully admitted. That is the reference relating to protection of just compensation in the hands of victims by providing for an Annuities Scheme. This would ensure that the victims would have total control over the compensation and fate and not suffer leakage. The Expert Body's extract from the decision of the Supreme Court dated 05.03.2019 in M.R.Krishnamurthy vs. New India Assurance Co. Ltd. may be apt.

> "The Supreme Court in its order had directed introduction of Annuity Scheme so as to ensure receipt of compensation in safe hands of victim and / or kids and kins of victims. In para 33 to 39 of the order in Krishna Murthi's case (cited above) may be extracted usefully:-
>
> "33) Vide order dated 6th November, 2017 in Jaiprakash case (SLP (Civil)No.11801-11804), this Court modified its order dated 13th May, 2016 and directed all States to implement the Modified Claims Tribunal Agreed Procedure formulated by Delhi High Court on 12th December, 2014. The copy of the Modified Claims Tribunal Agreed Procedure

was directed to be circulated to the Registrar General of each High Court for necessary compliance. The relevant part of the said order is reproduced hereunder:

> "It is also pointed out by learned amicus curiae that the order passed by Justice Midha referred to in our order of 13th May, 2016 was actually modified by Justice Midha on 12th December, 2014. The order dated 13th May, 2016 will, therefore, stand modified to the extent that Justice Midha has himself modified his earlier order on 12th December, 2014.

The Registry will send a copy of this order as well as the order passed by Justice Midha on 12th December, 2014 to the Registrar General of each High Court for necessary information and compliance."

34) This needs to be followed at All India Level. NALSA should take up and monitor the same as well in coordination and cooperation with various high courts to facilitate the same.

(C) Ensuring receipt of compensation in the safe hands of victims and/or kiths and kins of victims:

35) Mr.Arun Mohan has suggested that Government may frame procedures and schemes in this behalf. In particular LIC/RBI can provide for availability of annuity services in consultation with Pension Fund Regulatory and Development Authority and the commercial banks/insurance companies. To facilitate the same, the learned senior counsel has given two flowcharts, one under the existing law and the other on establishment of MAMA. The details for framing such procedure and schemes are given in the book of Mr. Arun Mohan referred to above. We impress upon the Government to look into the feasibility of framing such schemes and for the availability of annuity certificates. This exercise may be done within the period of six months and decision be taken thereupon.

36) In addition, we would also like to mention that the Delhi High Court (speaking through J.R. Midha, J.) in Rajesh Tyagi v. Jaiveer Singh and Others (FAO No. 842 of 2003) undertook the exercise of framing Motor Accident Claims Annuity Deposit Scheme (MACAD Scheme) in cooperation with Indian Banks Association. Purpose of involving the banks was to ensure that the Scheme is implemented through the banks. In its order dated 7 th December, 2018

passed in the aforesaid case, the learned Judge recorded that 21 banks had taken decision to implement MACAD Scheme which was approved by the Court on 1st May, 2018. Operative documents of these 21 banks were taken on record. The court directed that sets of these operative documents be furnished to the Registrar General of the High Court so that these are circulated to all the MACTs. Further, directions for implementation of the said Scheme are given. Therefore, we would like to reproduce order dated 7th December, 2018 in its entirety.

> "1. Mr. Lalit Bhasin, learned counsel for Indian Bank Association has handed over copies of the operative documents of 21 Banks which have implemented Motor Accident Claims Annuity Deposit Scheme (MACAD Scheme) approved by this Court on 01st May, 2018. The compilations of the operative documents of 21 banks are taken on record. Learned counsel for the Indian Bank Association shall furnish the sets of the operative documents to the Registrar General for being circulated to all the Claims Tribunals.
>
> 2. The Registrar General is directed to circulate the aforesaid compilation to all the Claims Tribunals for being implemented forthwith. The Claims Tribunals shall disburse the awarded amount to the claimants in a phased manner in terms of the order dated 01st May, 2018 and the award amount be disbursed through MACAD Scheme.
>
> 3. All the Banks are directed to appoint a Nodal Officer within four weeks. Learned counsel for the IBA shall compile the list of all the Nodal Officers of the Banks with their respective addresses, phone numbers as well as e-mail addresses and submit the same to the Registrar General who shall circulate the list of Nodal Officers to all the Claims Tribunals. The Nodal Officer of each Bank shall ensure the implementation of the MACAD Scheme by their branches. The Claims Tribunal shall send the copy of the disbursement order by e-mail to the Nodal Officer of that Bank who shall ensure the disbursement by the Bank within three weeks of the receipt of the e-mail.

4. The Indian Bank Association and Delhi State Legal Services Authority shall give adequate publicity to MACAD Scheme in the print as well as digital media.

5. Claims Tribunal Agreed Procedure in terms of the order dated 15th December, 2017 is further modified to incorporate the directions contained in orders dated 18th January, 2018, 09th March, 2018, 01st May, 2018, 20th July, 2018 and 07th September, 2018. The Modified Claims Tribunal Agreed Procedure is annexed to this order.

6. The Registrar General shall circulate the Modified Claims Tribunal Agreed Procedure to all the Claims Tribunals. The Claims Tribunals, Delhi Police and Insurance Companies are directed to implement the Modified Claims Tribunal Agreed Procedure with effect from 01st January, 2019.

7. Learned amicus curiae submits that the Committee is deliberating upon the issues referred to it by this Court. Let the final report of the Committee be submitted before this Court on the next date of hearing.

8. List for reporting compliance on 08th February, 2019 at 02:30 P.M.

9. This Court appreciates the assistance rendered by Mr. Lalit Bhasin, learned counsel for Indian Bank Association for implementation of MACAD Scheme. 10. Copy of this order along with Modified Claims Tribunal Agreed Procedure be sent to the Registrar General of this Court, National Legal Services Authority (NALSA), Delhi State Legal Services Authority (DSLSA), Delhi Police as well as General Insurance Council (5th Floor, Building No.14, National Insurance Building, Jamshedji Tata Road, Churchgate, Mumbai-400020). General Insurance Council shall circulate this order to all the Insurance Companies. 11. Copy of this order be given dasti to learned counsel for the parties as well as learned counsel for IBA and Delhi Police under signature of Court Master."

37) Thus, direction for implementation of the 'Claims Tribunal Agreed Procedure' which is substituted by modified procedure, as noted above, are already there. However, we find that there is no proper implementation thereof by the Claims Tribunals. We, thus, direct that there should be programmes from time to time, in all State Judicial Academies to sensitizing the presiding officers of the Claims Tribunals, Senior Police Officers of the State Police as well as Insurance Company for the implementation of the said Procedure.

38) The Modified Claims Tribunal Agreed Procedure as approved by High Court of Delhi in its aforesaid order dated 7th December, 2018 has the propensity to ensure speedy disposal of MACT cases. Likewise, Operative Documents of 21 documents which have implemented Annuity Deposit Scheme can ensure that compensation is delivered to the persons for whom it is meant. It has the element of annuity payments as well. There is, therefore, a need to implement the MACAD Scheme by the Claims Tribunals in the entire country. We direct accordingly. We also direct 21 banks to implement its operative documents on All India basis.

39) We sum up the various directions/recommendations hereinbelow:

(a) We impress upon the Government to also consider the feasibility of enacting Indian Mediation Act to take care of various aspects of mediation in general.

(b) The Government may examine the feasibility of setting up MAMA by making necessary amendments in the Motor Vehicles Act. For this purpose, it can consider the two flow charts given by the appellant.

(c) In the interregnum, NALSA is directed to set up Motor Accident Mediation Cell which can function independently under the aegis of NALSA or can be handed over to MCPC. Such a project should be prepared within a period of two months and it should start functioning immediately thereafter at various levels as suggested in this judgment. We reiterate the directions contained in order dated November 6, 2017 in Jai Prakash case for implementation of the latest Modified Claims Tribunal Agreed Procedure. For ensuring such implementation, NALSA is directed to take up the same in coordination and cooperation with various High Courts. MACAD Scheme shall be implemented by all Claim Tribunals on All India basis. 21 Banks, Members of Indian Banks Association, who had taken decision to implement MACAD Scheme would do the same on All India basis.

(d) We impress upon the Government to look into the feasibility of framing necessary schemes and for the availability of annuity certificates. This exercise may be done within the period of six months and decision be taken thereupon.

(e) Likewise, we direct that there should be programmes from time to time, in all State Judicial Academies, to sensitizing the Presiding Officers of the Claims Tribunals, Senior Police Officers of the State Police as well as Insurance Company for the implementation of the said Procedure."

(emphasis added)

However, the Indian Express dated 31.3.2019 reported that the Lawyers practicing before the MACT have some objections to the MAMA procedure adopted by the Supreme Court. It was also stated that a review petition has also been filed. In view of orders of Hon'ble Supreme Court mandating implementation of MACAD Scheme on PAN India basis, Expert Body feels that under Article 141 of Constitution of India, it is now law of the land. MACAD Scheme has to be implemented throughout India, without exception, and such implementation is directed to take place within two months from order dated 05.03.2019.

In addition to the above, the Hon'ble Supreme Court has directed the formulation and implementation of the procedure known as Motor Accidents Mediation Act procedure or MAMA for short. The concerned authorities have granted six months time "to also consider feasibility of enacting Indian Mediation Act to take care of various aspects of mediation in general". While so, it has been directed that "in the interregnum, NALSA - National Legal Services Authority is directed to set up Motor Accident Mediation Cell which can function as independent agencies of NALSA or can be MCPC – Mediation and Conciliation of Project. Such a project should be prepared within a period of two months and it should start functioning immediately thereafter at various levels as suggested in this judgement".

The Expert Body is given to understand by the Liaison Officer Mr. P Premanand, that preliminary meeting was conducted on 10.04.2019 by the High Court Legal Services Authority and Mediation Centre, and they are in the process of finalising the road map for implementation of MAMA procedure. It also appears that the Central Government Ministry of Road and Surface Transport, New Delhi has written to all State Governments including Tamil Nadu, for their response, following the judgement of Supreme Court in M.R.Krishna Murthy.

It has been brought to the notice of the Expert Body that in compliance with order dated 07.12.2018 passed by High Court of Delhi in MAC. APP. 422/2019 in Sobat Singh vs. Ramesh Chandra Gupta, the Indian Banks' Association had issued letter dated 05.01.2019 to all Chief Executives of Public Sector Banks for the implementation of MACAD Scheme and along with such letter the list of 21 banks/ Nodal officers, was also annexed for compliance by the Banks. (Copies Annexed to this report).

The Expert Body is satisfied that Term Of Reference No (iv) is now a fait accompli. There may no independent need for EB to consider and answer this reference. It is a matter of deep regret that welfare jurisdiction relation to innocent motor accidents victims, there is far too much leakage, with just compensation not reaching hands of the victims. Though the Madras High Court had in Divisional Manager, Oriental Insurance Co Ltd. Vs Rajesh dated 11.03.2016 had directed implementation of Direct Bank Transfer by resort to NEFT/RTGS procedure, to the bank accounts of the claimants, it appears that the practitioners continue to exercise control over the funds, by opening bank accounts at their convenience. The claimants have to look forward to this compensation for their sustenance and living for the rest of their lives. The compensation needs to be protected and preserved, without any leakage of the kind, referred to by the Supreme Court itself in judgement in Sunitha Vs State of Telengana reported in 2018 (1) SCC 638. It was a case of complaint of huge legal fees charged by a practitioner as Champerty. It is prohibited in India.

18. In the course of examination of various representations and letters from claimants, advocates, Claims Tribunals, Insurance Companies, as stake holders, it has been noted that there are pernicious practices, money based, which are in voge in this jurisdiction. Several instances from of the advocates' themselves have been recorded by the Expert Body, in its reports dated 25.10.2018 (Second Interim Report), 09.01.2019(Third Interim Report) and 22.01.2019(Fourth Interim Report). It would therefore be unnecessary to repeat the same.

From the above discussion, the Expert Body is satisfied that it may be appropriate for the High Court to issue a suitable direction for implementation of MACAD Scheme – Motor Accident Claims Annuity Deposit Scheme, by all Motor Accident Claims Tribunals, in the State of Tamil Nadu, on and from 01.08.2019, in respect of all awards including compromise awards rendered, after that date. The Supreme Court has made it clear in its order dated 05.03.2019 MACAD Scheme shall be implemented on PAN India basis immediately. In view of the new dispensation, the Expert Body feels that implementation may be from 01.08.2019 so that logistics for such implementation was in place, by that time.

The Expert Body had a detailed discussion with the officials of the Indian Bank lead by Mr.R.Balasubramanian, General Manager (Retail Assets & Deposits), Chennai – 14. On request, Ms. D. Uma, Chief Manager, Indian Bank, Corporate Office, No:254-260, Avvai Shanmugam Salai, Royapettah, Chennai – 600014, the Nodal Officer for the said bank, already appointed as per list submitted by Indian Banks' Association, dated 05.01.2019 (Annexure 10 to this report) met the Expert Body on 13.05.2019. All nationalised banks, forming part of the list and letter dated 05.01.2019 from IBA were bound, ready and willing, too fulfil their obligations in Tamil Nadu also. It was pointed out that already the Indian Bank, had a Branch inside the High Court compound and had a vast network in Tamil Nadu, as well as in India. The other nationalised banks are also equally well placed to carry out the "MACAD – MACT SB", Scheme in Tamil Nadu where thousands of claims are pending before various claims tribunals. A copy of the bank's brochure regarding Motor Accident Claims Annuity Deposit (MACAD) Product as well as brochure regarding MACT Claims SB Account were also furnished by the bank officers (Annexure 11 & Annexure 12).

Once Indian Banks' Association committed itself for implementation of MACAD Scheme on PAN India basis, EB is satisfied that it would suffice to meet the requirements, to issue a direction to all Claims Tribunals in Tamil Nadu. EB is satisfied that the order dated 05.03.2019 from the Supreme Court in M.R.Krishna Murthy case is binding. MACAD scheme as conceived and put in place is to protect the interest of innocent motor accidents victims. Implementation of MACAD Scheme would prevent and avoid leakage of the kind contemplated in Sunitha Vs State of Telengana reported in 2018 (1) SCC 638 and Divisional Manager, Oriental Vs Rajesh dated 11.03.2016. It would also ensure that investments being made by practitioners to catch clients and interact with touts/ brokers and even pay advances as emergency funds to victims, may cease. If compensation amount is protected, preserved and paid under MACAD Scheme, lumpsum payment would be avoided. The practice of Champerty or percentage fees would also be avoided. Thus Term Of Reference - (iv) in order dated 19.07.2018 would/could be fully answered with implementation of MACAD Scheme.

In fine, EB would therefore recommend that the Hon'ble High Court may be pleased to direct implementation of Motor Accidents Claims Annuity Deposit Scheme- MACAD- MACT SB Scheme as agreed to by Indian Banks' Association vide its letter dated 05.01.2019, by all Motor Accident Claims Tribunals in Tamil Nadu, on and from 01st October 2019 (01.10.2019), without any exception, in respect of all awards in motor accidents claims passed by the Claims Tribunals from 01.10.2019, for the larger benefit of the community of motor accidents victims, in the interest of justice."

OTHER RECOMMENDATIONS OF THE EXPERT BODY:

13. The MACAD Scheme requires the immediate attention of this Court, as it is founded on binding orders of the Supreme Court of India. As for the other recommendations, the Expert Body has put together all its recommendations in terms hereinbelow.

"CHAPTER - 11

CONCLUSIONS AND RECOMMENDATIONS

11.1 By order dated 15.11.2018, the High Court granted interim stay of further proceedings in the following 76 matters pending further orders:-

S.No.	MCOP No.	MACT	Court Name
1	6626/2014	Chennai	Special Sub Judge-I, Court of Small Causes
2	2288/2014	Chennai	Small Causes Court - III
3	2245/2013	Chennai	Small Causes Court - II
4	1500/2016	Chennai	Special Sub Judge-II - Court of Small Causes
5	4840/2016	Chennai	Special Sub Judge-II - Court of Small Causes
6	3158/2017	Chennai	Small Causes Court - II
7	2412/2017	Chennai	Small Causes Court - III
8	5408/2016	Chennai	Small Causes Court - IV
9	7049/2016	Chennai	Small Causes Court - IV
10	6685/2016	Chennai	Small Causes Court - VI
11	5999/2016	Chennai	Small Causes Court - II
12	4383/2012	Chennai	Small Causes Court - III
13	376/2013	Chennai	Small Causes Court - II
14	7066/2016	Chennai	Small Causes Court - II
15	7042/2016	Chennai	Small Causes Court - III
16	7287/2017	Chennai	Small Causes Court - II
17	1492/2016	Chennai	Small Causes Court - II
18	5642/2016	Chennai	Small Causes Court - III
19	5601/2016	Chennai	Small Causes Court - III
20	5759/2016	Chennai	Small Causes Court - III
21	1271/2014	Chennai	Small Causes Court - II
22	2196/2014	Chennai	Small Causes Court - II
23	4047/2014	Chennai	Small Causes Court - V
24	6738/2013	Chennai	Small Causes Court - II
25	1059/2016	Chennai	Small Causes Court - IV
26	2198/2016	Chennai	Small Causes Court - II
27	4521/2016	Chennai	Small Causes Court - VI
28	2481/2017	Chennai	Small Causes Court - II
29	2486/2017	Chennai	Small Causes Court - II
30	5181/2015	Chennai	Small Causes Court - II
31	5182/2015	Chennai	Small Causes Court - II

32	5183/2015	Chennai	Small Causes Court - II
33	5050/2016	Chennai	Small Causes Court - II
34	5465/2016	Chennai	Small Causes Court - II
35	3185/2011	Chennai	Small Causes Court - V
36	3129/2011	Chennai	Small Causes Court - V
37	1357/2013	Chennai	Small Causes Court - VI
38	1875/2013	Chennai	Small Causes Court - VI
39	3638/2015	Chennai	Small Causes Court - III
40	3637/2015	Chennai	Small Causes Court - III
41	164/2018	Trichy	Special Sub Court
42	W.C. 8/2018	Trichy	Dy. Commissioner of Labour - Trichy
43	W.C.9/2018	Trichy	Dy. Commissioner of Labour - Trichy
44	W.C.11/2018	Trichy	Dy. Commissioner of Labour - Trichy
45	W.C.13/2018	Trichy	Dy. Commissioner of Labour - Trichy
46	545/2017	Cuddalore	Special Sub Court
47	3019/2016	Cuddalore	I Additional Sub Judge
48	778/2013	Cuddalore	Special Sub Court
49	2883/2014	Cuddalore	I Additional Sub Judge
50	3405/2014	Cuddalore	II Additional Sub Judge
51	2822/2014	Cuddalore	III Additional Sub Judge
52	2787/2016	Cuddalore	Special MCOP Court
53	1389/2017	Cuddalore	Special Sub Judge
54	18/2016	Cuddalore	Special MCOP Court
55	506/2013	Cuddalore	II Additional Sub Judge
56	2965/2014	Cuddalore	I -Additional Sub Judge
57	1389/2017	Cuddalore	Principal Sub Judge
58	2449/2009	Cuddalore	I - Additional Sub Judge
59	2917/2014	Cuddalore	Chief Judicial Magistrate
60	3078/2014	Cuddalore	Chief Judicial Magistrate
61	1564/2017	Cuddalore	Principal Sub Judge
62	3074/2014	Cuddalore	Chief Judicial Magistrate
63	821/2016	Cuddalore	I Additional Sub Judge

64	2345/2014	Cuddalore	III Additional Sub Judge
65	48/2018	Vellore	Chief Judicial Magistrate, Vellore
66	47/2018	Vellore	Chief Judicial Magistrate, Vellore
67	49/2018	Vellore	Chief Judicial Magistrate, Vellore
68	50/2018	Vellore	Chief Judicial Magistrate, Vellore
69	51/2018	Vellore	Chief Judicial Magistrate, Vellore
70	152/2017	Vellore	Principal Subordinate Judge
71	352/2017	Erode	Special District Judge
72	793/2016	Gobichetti palayam	Sub Judge
73	404/2015	Gobichetti palayam	Sub Judge
74	352/2017	Erode	Special District Judge
75	500/2015	Gobichetti palayam	Sub Judge
76	485/2016	Gobichetti palayam	Sub Judge

11.2 However, action has been initiated against 7 advocates and during the pendency of the proceedings as many as 280 cases have been withdrawn. Therefore it will not be necessary to continue the interim stay of further proceedings dated 15.11.2018 and the same may be vacated with a direction to the respective tribunals to deal with the matters in accordance with law including objections regarding a second claim being made in respect of the very motor accident which gave rise to these proceedings.

11.3 In respect of digital platform and DAR Regime being set up, there is a complaint that the documents are not uploaded on time and there has been inordinate delay in hosting them. Appropriate direction may be issued to upload the documents as and when available and without delay.

11.4 The suggestions received from the Insurer, Bar and the Presiding Officers are innumerable and relates to varied fields and to be implemented by different authorities. The suggestions are enumerated in Chapters 6, 7 and 8 of this report. Essential ones are alone reproduced therein. Some suggestions requires statutory amendments, some requires enacting of appropriate rules and some of them requires circulars / direction to be issued by the High Court. Therefore, the suggestions / recommendations made in the chapters 6,7 and 8 may be sent to the rules committee of the High Court for making appropriate recommendations to the appropriate authorities including of framing of rules and issuing of directions by the High Court.

11.5 The Expert Body would recommend that the High Court may be pleased to direct implementation of Motor Accidents Claims Annuity Deposit Scheme- MACAD- MACT SB Scheme as agreed to by Indian Banks' Association vide its letter dated 05.01.2019, by all Motor Accident Claims Tribunals in Tamil Nadu, on and from 1st November 2019 (01.11.2019), without any exception, in respect of all awards in motor accidents claims passed by the Claims Tribunals from 01.11.2019, for the larger benefit of the community of motor accidents victims, in the interest of justice.

11.6 Considering the amount involved is very small and that the insurers will also be directed to contribute to the corpus fund under the third party insurance claim which is based upon the extent of injury, the Expert Body recommends appropriate directions to the State Government to establish the TAEI 48 hour cashless insurance scheme for road accident victims as part of the final order to be passed in the above Crl.O.P.

11.7 The Expert Body places this final report before the High Court and requesting it to pass appropriate orders / directions as it may deem fit in the circumstances of the issues involved."

DIRECTIONS ISSUED:

MACAD SCHEME:

14. This Court has little hesitation in accepting the recommendations in toto. Just as Jaiprakash (SC) rendered the DAR regime law of the land, M.R.Krishnamurthy (SC) has done likewise on the MACAD Scheme. This Court has a duty to follow the mandate of the Supreme Court. It therefore directs the Registrar General, High Court of Judicature at Madras, to issue a Circular, preferably within two weeks hereof, to all the Motor Accidents Claims Tribunals in Tamil Nadu and Puducherry, to implement the MACAD Scheme as mandated by the Supreme Court in the order dated 05.03.2019 in M.R.Krishnamurthy (supra). The Registrar General is directed to send the Circular along with a copy of this order and duly annex the documents relating to implementation of the MACAD Scheme as well. The said documents are annexed to this order for ready reference.

15. Upon issue of such Circular, it is hereby made clear that all the Claims Tribunals in the State of Tamil Nadu and Union Territory of Puducherry shall strictly abide by the Motor Accidents Claims Annuity Deposit Scheme (MACAD) framework in the matter of disbursement of just compensation to all accidents victims. The implementation of the MACAD Scheme shall be on and from 01.10.2019, to put the logistics in place, for practical and realistic reasons. There shall be no exception made to this MACAD Scheme compliance, even in claims which are settled by way of compromise by Alternate Dispute Resolution mode, be it in Lok Adalat or Mediation dispensations, except as may be provided for in the Scheme itself, for reasons to be recorded in writing by the Claims Tribunals.

TO THE S.C.R.B., CHENNAI & ALL POLICE STATIONS:

16. In terms of the recommendation in para No.11.3 in Chapter 11 of the final report of the Expert Body, it is hereby directed that the S.C.R.B., Chennai and all Police Stations shall carry out the implementation of the Detailed Accident Report (DAR) on Digital Platform without any let or hindrance. It is hereby directed that the SCRB and all Police Stations shall strictly upload the name and mobile number of the victim or claimant representing the victim as soon as possible, to enable the victims/claimants to access the records. The S.C.R.B., Chennai and all Police Stations shall implement the DAR Regime in good order and condition by uploading all required documents relating to motor accidents claims for the benefit of all stakeholders, in an expeditious manner without delay and ensure that the uploaded documents are verified for authenticity

and are legible for use, for the larger benefit of all the intended beneficiaries. It is hereby made clear that all Nodal Officers identified by the Office of the Director General of Police, Chennai shall duly redress the grievances raised by all stakeholders, within a reasonable timeline, to carry out the purpose of the DAR regime.

CRIMINAL PROCEEDINGS:

17. In addition, apart from the complaint to the CB-CID in Cr.1/18, (Metro) Chennai, relating to alleged tampering with FIR No.59/2017, Somangalam Police Station, the tragic case of 56 missing MCOP bundles from the Claims Tribunals in Chennai, within this Court's compound itself, was referred to CB-CID in Cr. No.5/2018. And a further Cr. No.4/2019, District Crime Branch, Vellore was also noted in relation to alleged fabrication of medical records by a private insurer. These separate references are pending logical conclusion. It may suffice to direct the respective prosecution agencies to take these criminal investigations to their logical conclusions and file the result of the same, as compliance reports, with the Registry of this Court, as expeditiously as may be permissible in the circumstances of the cases.

OTHER TERMS OF REFERENCE:

18. Insofar as the other Terms of Reference, it is hereby directed that the final report dated 05.08.2019 of Justice K. Chandru (Retd.) as the Expert Body be handed over the Chief Secretary, State of Tamil Nadu, for appropriate consideration and follow up action to pass Government Orders or issue notifications or Circulars, or statutory changes, as may be called for in the circumstances, for compliance with the recommendations made in the final report of the Expert Body dated 05.08.2019, as is found practically possible. The orders of the Supreme Court are law of the land under Article 141 of the Constitution of India. It may suffice for the State of Tamil Nadu, on satisfaction with the recommendations and inclination to implement them, to merely issue Government Orders, wherever applicable. It would constitute compliance with the directions of the Supreme Court and even the Agreed Procedure in New Delhi has come about by a mere Notification. It would be open to the State to constitute an expert committee of its choice and examine the findings in the final report dated 05.08.2019 of the Expert Body, for follow up and implementation, with coordination of all concerned Departments such as Home, Transport, Health, etc. of the State. The expectation of this Court is that the hard work and diligence and expertise of the Expert Body, captured in its reports and the final report dated 05.08.2019 bear fruit, as it deserves to. The efforts of this

Court, in this regard, have yielded a lot of dividends, thus far, as recorded in this order itself. But, more needs to be done as the findings in the Expert Body's final report discloses.

19. This Court records its appreciation for the cooperation and assistance rendered by all the counsel who appeared, as well the office of the Director General of Police and the S.C.R.B., Chennai, for its diligence to take forward the orders of this Court. This Court was pained and anguished at the exposure of so much dirt. But, was satisfied that unless one got to expose the cesspool, one cannot even attempt to think of cleansing it. Identification of the problem is essential for considering or suggesting solutions. There is a lot wrong in the motor accidents claims jurisdiction. That stands exposed thanks to these proceedings allied with the reports of the Expert Body. Now, the final report dated 05.08.2019 of the Expert Body is ready on a platter for the powers that be to examine and come up with follow up action. The recommendations of the Expert Body deserve serious and careful attention. This Court is gratified by the assurance given by the learned Additional Advocate General, that the learned Advocate General has offered to personally take interest and initiatives to see that the recommendations in the final report dated 05.08.2019, were given their due by the State of Tamil Nadu. His assurance was comforting and hope there would be necessary reciprocity from the State to carry out follow up action, a much needed one, to ensure the return of the purity of administration of justice, in this vexed motor accidents claims jurisdiction.

48 HOUR TRAUMA CARE:

20. So far as the implementation of the recommendations of the Expert Body in this respect is concerned, they need a bit of time and careful consideration. The recommendations include the directions of this Court made in its order dated 11.06.2019 apart from the Terms of Reference. That specific direction relates to the issue of providing Emergency Trauma Care for the first 48 hours from the time of occurrence of an accident, inclusive of the golden hour. If the victims are given the best care and attention during this period, it is brought to the notice of this Court that there is every chance for the victim to survive. The letter dated 24.06.2019 addressed by the Advocate General in furtherance to this direction is brought to the notice of this Court, to consider the possibility of institutionalizing this aspect. It appears that already the State Government has invested heavily on this issue, time, effort and resources, as a limb of the National Health Mission. It is a commendable act. However, considering the burgeoning

number of accidents in Tamil Nadu, it would appear that financial resources may be necessary for improving the existing infrastructure in place.

21. In this scenario, it may be appropriate for the motor Insurance Companies to consider offering their cooperation and assistance to support to augment the efforts of the State of Tamil Nadu. If the victims' lives and limbs are saved from devastation and the victims survive, the insurers too would gain. Saving of lives and limbs by itself is a noble cause and surely, the Insurance Companies would not and should not hesitate to offer their support, including financially. Obviously, saving the lives and limbs of the victims, must be an all-round effort and the compulsory insurance precept and practice is devoted to this cause. Hence, it is suggested to the State of Tamil Nadu to rope in the motor insurance players into this issue while providing 48 Hour Trauma Care inclusive of the golden hour. A corpus could be created from the coffers of the insurance companies and they can initially provide an uniform deposit and then, proportionally take a share in line with the number of claims that arise under the motor insurance policies issued by them, in relation to accident claims within the State. This may be fair and equitable and go a long way in helping the cause of the victims. There is the umbrella institution in the General Insurance Council, Mumbai, which could be reached out for representing the cause of Insurance Companies so that it could be a single window interaction for logistics and discussion. It may be fit and proper for the General Insurance Council, Mumbai, to put the respective Chief Executive Officers of the insurance companies on notice of these orders for sure and effective follow up, in their own interest and undeniably, larger public interest. Further to the directions of this Court on 11.06.2019, in this regard, the learned Advocate General had called for a meeting at the Secretariat, Chennai by letter dated 24.06.2019. The Minutes of the said Meeting dated 31.07.2019 has been produced by the State of Tamil Nadu, as Status Report in compliance to the directions. The State of Tamil Nadu has made a request that this Court may be inclined to issue directions to the General Insurance Council, Mumbai, to appear and participate in proceedings/meetings that may be called for by the State of Tamil Nadu, in relation to 48 Hour Trauma Care scheme. It is a fair and reasonable request imbued with overwhelming public interest. Accordingly, a direction is issued to the General Insurance Council, Mumbai, as representative of all the licensed general insurers handling motor insurance portfolio, to appear and participate in such meetings/proceedings that may be called by the State of Tamil Nadu, in this regard. This Court fervently hopes that the Insurance Companies would appreciate their position and need to support a societal cause which is

closest to the Parliament’s mandate for compulsory motor insurance. Since the proceedings in Crl.O.P. No.5922 of 2018, have culminated with this order, this Court is inclined to recommend to the Hon’ble Chief Justice, Madras High Court, on the Administrative Side, on this issue of 48 Hour Trauma care, to be addressed, on the judicial side as a public interest litigation, as deemed fit by the Master of Roster of this Court.

VACATING ORDERS OF INTERIM STAY:

22. By order dated 15.11.2018, this Court had stayed the proceedings in 76 MCOPs. The entire list is available in an extract above from the Expert Body from Chapter 11 of its final report dated 05.08.2019. They were tainted cases being double or duplicate claims or those in which the counsel for claimants had chosen to offer his residential address as those of claimants, for his convenience, in which specific counsel were involved. Now that the proceedings are winding down in this case, it is time to take a fresh look. It is reported that the double/duplicate claims stand withdrawn and only one claim was pursued. Double/duplicate claims have either been withdrawn from among them or allowed to be dismissed for default. And in respect of 40 cases where a counsel had used his residential address as the addresses of the claimants, this Court had already permitted the counsel to come clean and file applications to amend the addresses to reflect the genuine addresses of the claimants. It is reported that the counsel has chosen to do so. For these reasons, the interim orders of stay need not continue. The purpose of order of interim stay has been served. Hence, the interim order of stay dated 15.11.2018 stands vacated, but, with a direction to the respective Motor Accidents Claims Tribunals to ensure that there were no duplicate claims pending for the said claims and in those cases where the counsel V.Velu, Advocate, Chennai, filed petitions to correct the addresses of claimants as required and affidavits were filed by the claimants, in all the said 76 MCOPs, that they there were no duplicate claim pending in respect of the accidents in question. In case of MCOPs from the list, having already been dismissed for default for being a duplicate claim or already withdrawn, they shall be allowed to stay dismissed for good. In effect, the Claims Tribunals shall construe the stay as vacated in respect of the proceedings in 76 MCOPs only upon their satisfaction that there was no duplicate claim pending for the same accident.

COPIES OF THIS ORDER:

23. It is hereby directed that the Registrar General of this Court shall send a copy of this order along with the final report dated 05.08.2019 of the Expert Body to all the Motor Accident Claims Tribunals in Tamil Nadu and Puducherry, the Office of the Director General of Police, the S.C.R.B., Chennai, the General Insurance Council, Mumbai, (Secretary General, General insurance Council, 5th Floor, National Insurance Building, 14, Jamshedji Tata Road, Churchgate, Mumbai, Maharashtra-400 020 (gicouncil@gicouncil,in) (sg@gicouncil.in) - Tel: 91 22 2281 7511/12 (for and on behalf of all Insurance Companies) apart from sending them to Chief Secretary, Government of Tamil Nadu, Fort. St. George, Chennai, for appropriate consideration and compliance by them.

REMUNERATION TO THE EXPERT BODY & JUNIOR COUNSEL:

24. This Court and this jurisdiction owe a huge sense of gratitude for the herculean task undertaken by Justice K.Chandru (Retd.). He took up the task with his customary zeal and kept up an amazing speed, considering the Terms of Reference, his correspondences with all stakeholders, be it advocates, or insurance companies or police officials or bank officials, whoever. Obviously, his junior counsel Mr.J.Narayanasamy has also been of immense help. Mere commendation of their services would not suffice. Hence, this Court would direct the petitioner, Cholamandalam MS General Insurance Company Ltd., to pay a sum of Rs.10,00,000/- as the last and final instalment of remuneration payable to Justice K.Chandru (Retd.). Similarly, a sum of Rs.2,50,000/- shall be paid by the petitioner insurer to the junior counsel Mr.J.Narayanasamy, both within a period of two weeks hereof. It is hereby made clear, as already indicated earlier, that all the 19 Insurance Companies who have benefited from the services of the Expert Body, one way or another, as the advantages are industry-generic and not institution-specific, shall take an equal share in the payments, now being ordered to be paid to the Expert Body and its junior counsel.

EPILOGUE:

25. Before parting with these proceedings, a few observations may be appropriate. This Court is aware that all is not well with this jurisdiction. It is a matter of common knowledge. But, it now stands exposed thanks to these

proceedings. Whatever little efforts could be taken to cleanse the systemic faults have been taken. It appears that there are perceptible changes on the ground. It augurs well for the future. Miracles do not happen overnight. Change is always slow. It is a long winding process. We all belong to a noble profession to which several freedom fighters belonged. They sacrificed their professional and personal interest for the cause of the nation. Now, if we choose to sully the purity of administration, for our commercial self, pelf and aggrandizement, it would be a lasting blot on the nobility in the profession. Time to pivot from the bad. The final report dated 05.08.2019 of the Expert Body is a huge opportunity on offer.

26. This Court can do no more than rely upon the sincere assurances of the learned Advocate General of the State of Tamil Nadu that the State would take note of the recommendations in the final report of the Expert Body dated 05.08.2019 and take follow up action, in a timely manner, by issuing Government Orders or making appropriate changes in the Tamil Nadu Motor Vehicle Accident Claims Tribunal Rules, 1989, or issue Circulars or Notifications, or required statutory changes, as the case may be, to ensure implementation of the recommendations in the final report of the Expert Body, as is practically feasible, for strengthening the precept and practice of motor accidents claims jurisdiction.

27. Before bringing down the curtain, this Court deems it necessary to accept the explanation and accede to the request of Mr. S. Arunkumar, learned Standing Counsel for National Insurance Company Ltd. and United India Insurance Company Ltd. and Mr. S. Manohar, learned Standing Counsel for New India Assurance Company Ltd. and The Oriental Insurance Company Ltd., to expunge the remarks made against them in the order dated 15.11.2018. It is their apologetic explanation that the local office in Chennai had failed to apprise the Head Office of the notice ordered to them, which is accepted and the remarks expunged. This order will stand inchoate if this Court fails to place on record its gratitude and deep appreciation for the assistance rendered by Mr.N.Vijayaraghavan in the navigation of these proceedings. This Court is informed that he had also assisted the Expert Body and the State Government, including the police, with his valuable inputs. Indubitably, he stands as a beacon light in the Motor Vehicles jurisdiction, offering his services, pro bono, to every seeker. His indefatigable energy and commitment to the cause deserves commendation.

28. This Court directs the CB-CID (Metro), Chennai and the District Crime Branch, Vellore, to proceed with the investigation in CB-CID Cr. No.1 of 2018, CB-CID Cr. No.5 of

2018 and Cr. No. 4 of 2019 on their respective files and complete the same expeditiously by bringing the guilty to book.

This criminal original petition stands closed in terms of this order, with the fond hope that justice would be done to the cause of innocent victims of motor accidents claims, which they desperately deserve.

Indian Banks' Association

'Motor Accident Claims Annuity Deposit (MACAD)'

'MACT Claims SB Account' for Public Sector Banks

1. The High Court of Delhi (hereafter referred as 'DHC') observed that all the Claims Tribunals in Delhi are not disbursing the compensation amount to the claimant(s)/ victim(s) of the road accidents in a phased manner. Accordingly, DHC considered formulating a special Scheme for disbursement of the compensation to these victims with the certain restrictions in such accounts.

2. RBI & IBA have been requested to formulate a special scheme for disbursement of the compensation amount to the victims of road accidents in association with State Bank of India, UCO Bank and LIC.

3. IBA discussed these aforesaid directions with its Member Public Sector Banks (PSBs) and formed a Working Group of 4 Banks consisting of State Bank of India, Bank of Baroda, UCO Bank and Punjab National Bank to finalise the 'Draft Model Scheme'.

4. This Working Group drafted the scheme, considering the existing Annuity Deposit Scheme of State Bank of India as a base and after considering the below modified clauses of 'Modified Claims Tribunal Agreed Procedure'-

a) New clause 18 be incorporated after Clause 17 of Modified Claims Tribunal Agreed Procedure. Clause 18 is of 'direction to the claimant(s) to open savings bank account near the place of their residence in a nationalized bank'.

b) No loan, advance or withdrawal be allowed on the fixed deposits made out of award amounts, without permission of the Court.

c) The Bank shall not permit any joint name(s) to be added in the savings bank account or fixed deposit accounts of the victim.

d) No Cheque Book and/ Debit card be issued. If already issued, same to be cancelled.

e) The bank shall make an endorsement on the passbook of the claimant(s) to the effect that no cheque book and/or debit card have been issued and shall not be issued without the permission of the Court and claimant shall produce the passbook with the necessary endorsement before the Court.

5. The said Scheme consists of one Fixed Deposit product named as 'Motor Accident Claims Annuity Deposit (MACAD) product' and the other would be saving bank account product, named as 'MACT Claims SB Account' which got an approval of the Hon'ble High Court on 01.05.2018, is enclosed herewith as Annexure- I.

6. The 'Claims Tribunal Agreed Procedure' in terms of the Order dated 15.12.2017 has further been modified to incorporate the directions contained in Orders dated 18.01.2018, 09.03.2018, 01.05.2018, 20.07.2018 and 07.09.2018passed by DHC [Ref. Case No. MAC. APP. 422 of 2009 (Sobat Singh v/s. Ramesh Chandra Gupta &Anr.).

7. The 'Modified Claims Tribunal Agreed Procedure' is annexed with DHC Order dated 07.12.2018 which will be implemented w. e. f. 01.01.2019 by Claims Tribunals, Delhi Police and Insurance Companies. A copy is enclosed as Annexure- II.

8. DHC requested Indian Banks' Association (IBA) to give digital publicity to the 'MACAD-MACT SB Scheme'. Hence, same is published on our website.

Annexure- I

MOTOR ACCIDENT CLAIMS ANNUITY DEPOSIT (MACAD) PRODUCT

A new FD product "MACAD" will have the following features:-

Sr. No.	Scheme Features	Particulars / Details
1	Purpose	One time lump sum amount, as decided by the Court / Tribunal, deposited to receive the same in Equated Monthly Instalments (EMIs), comprising a part of the principal amount as well as interest.
2	Eligibility	Individuals including Minors through guardian in single name.
3	Mode of holding	Singly
4	Type of account	Motor Accident Claims Annuity (Term) Deposit Account (MACAD)
5	Deposit amount	i. Maximum: No Limit ii. Minimum: Based on minimum monthly annuity Rs. 1,000/- for the relevant period.
6	Tenure	i. 36 to 120 months ii. In case the period is less than 36 months, normal FD will be opened. iii. MACAD for longer period (more than 120 months) will be booked as per direction of the Court.
7	Rate of interest	Prevailing rate of interest (as on date of receipt of funds for booking MACAD) and as per Tenure.
8	Receipts/ Advices	i. No Receipts will be issued to depositors. ii. Passbook will be issued for MACAD.
9	Loan Facility	No loan or advance shall be allowed.
10	Nomination facility	i. Available. ii. MACAD shall be duly nominated as directed by the court.

Sr. No.	Scheme Features	Particulars / Details
11	Premature payment	i. Premature closure or part lump sum payment of MACAD during the life of the claimant will be made only with permission of the court. However, if permitted, the annuity part will be reissued for balance tenure and amount, if any, with change in annuity amount. ii. Premature closure penalty will not be charged. iii. In case of death of the claimant, payment to be given to the nominee. The nominee has an option to continue with the annuity or seek pre-closure.
12	Tax deduction at source	i. Interest payment is subject to TDS as per Income Tax Rules. Form 15G/15H can be submitted by the Depositor to get exemption from Tax deduction. ii. The annuity amount on monthly basis net of TDS, will be credited to the 'MACT Claims Saving Bank Account' of beneficiary.

Annexure II

MACT CLAIMS SB ACCOUNT

A new SB product "MACT Claims Saving Bank Account will have the following features:-

Features	Particulars/Details
Eligibility	Individuals including Minors (through guardian) in single name.
Minimum/Maximum Balance Requirement	Not applicable

Features	Particulars/Details
Cheque book / Debit Card / ATM Card/ Welcome Kit/ Internet Baking / Mobile Banking facility	i. By default, these facilities are not available in this product. ii. However, in case these facilities have already been issued, the court shall direct the bank to cancel the same before the disbursement of the award amount. iii. The bank shall make an endorsement on the passbook of the claimant(s) to the effect that no cheque book and/or debit card have been issued and shall not be issued without the permission of the Court.
Operations in the account	i. Only single operation. ii. In case of Minor accounts, the operation will be through guardian.
Withdrawals	Only through Withdrawal Forms or through Bio-Metric authentication.
Product change	Not permitted
Place of opening	Only at the Branch near to the place of residence of Claimant (As directed by the Court).
Account transfer	Not allowed
Nomination	Available
Passbook	Available
Rate of interest	As applicable to Regular SB accounts
Statement by email	Available
P. S.: - Any other terms and conditions of SB account in Bank are applicable.	

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1 Hon'ble Mr. Justice K. Chandru (Retd.)
No.4-B, "Kanchana"
78, St. Mary's Road
Abhiramapuram
Chennai 600 018

2 The Registrar General
High Court of Madras
Chennai 600 104

3 The Advocate General
High Court of Madras
Chennai 600 104

4 The Public Prosecutor
High Court of Madras
Chennai 600 104

5 The Chief Secretary
Government of Tamil Nadu
Fort. St. George
Chennai 600 009

6 The Secretary
Health Department
Fort St. George
Chennai 600 009

7 The Secretary
Home Department
Fort St. George
Chennai 600 009

8 The Secretary
Transport Department
Fort St. George
Chennai 600 009

9 The Secretary
Expenditure Department
Fort St. George
Chennai 600 009

10 The Director General of Police
Tamil Nadu Police Head Quarters
Santhome
Chennai-600 004

11 The Superintendent of Police
Office of the Superintendent of Police
Thayarkullam
Kanchipuram
Tamil Nadu - 631 501

12 The Superintendent of Police
District Crime Branch
Kanchipuram
Kanchipuram District

13 The Superintendent of Police
CB-CID (Metro),Chennai

14 The Inspector of Police
Somangalam Police Station
Kanchipuram District

15 The Inspector of Police
TIW - TIW, Chromepet Police Station
Chennai TIW, South

16 All Motor Accident Claims Tribunals in Tamil Nadu
and Puducherry

17 Ms.B.Shridevi
Additional Superintendent of Police, P.C.W.
State Crime Records Bureau
95, Greenways Road
M.R.C. Nagar, R.A. Puram
Chennai 600 028

18 The General Insurance Council, Mumbai (Secretary General)
General Insurance Council
5th Floor, National Insurance Building
14, Jamshedji Tata Road
Churchgate
Mumbai - 400 020

19 The Secretary
Bar Council of Tamil Nadu & Puducherry
High Court Buildings
Chennai 600 104

20. The Section Officer,
    Legal Cell,
    High Court, Madras-104.

+1cc to Mr.N.Manokaran, Advocate sr.69907

Crl. O.P. No. 5922 of 2018

jp(co)
nr & rrs 29/08/2019