

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 11.05.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Tr. CMP. Nos.254 to 263 of 2020

M/s.Tata AIG General Insurance Co Ltd.,
Samson Towers, II Floor, 403 L
Pantheon Road, Egmore,
Chennai-600 008.

...Petitioner in all Tr. CMPs

.Vs.

- 1.Kunjammal (MCOP No 803/2019) ...Respondents in
Tr.CMP No.254/2020
- 2.Chinnasamy (MCOP No 805/2019) ...Respondents in
Tr.CMP No.255/2020
- 3.V Murugan (MCOP No. 47/2019) ...Respondents in
Tr.CMP No.256/2020
- 4.S Mohankumar (MCOP No.262/2019) ...Respondents in
Tr.CMP No.257/2020
5. M Kathiravan (MCOP No.401/2019) ...Respondents in
Tr.CMP No.258/2020
6. 1.Ramalakshmi (MCOP No.645/2014)
2.Vijaya Samundeeswari
3.Ganesamoorthi ...Respondents in
Tr.CMP No.259/2020
- 7.Balakrishnan (MCOP No 42/2015) ... Respondents in
Tr.CMP No.260/2020
8. 1.Vasanthi (MCOP No. 392/2019)
2.Vedappan (Minor)
3.Arshavarthini (Minor)
4.Gokulakrishnan (Minor)
(Minors 2 to 4 represented by mother
and Next friend 1st Respondent/Petitioner)
5.Armugam
6.Anjali ... Respondents in
Tr.CMP No.261/2020

9. Kuppan (MCOP No. 446/2019)

...Respondents in
Tr.CMP No.262/2020

10. Titus Thiyagarajan (MCOP No. 3433/2019)

...Respondents in
Tr.CMP No.263/2020

....Respondents in Tr.CMPs/
Petitioners in MCOPs

1)Prayer in Tr.CMP No.254/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of Constitution of India, to withdraw and transfer the petition in MCOP No. 803/2019, on the file of the learned Motor Accident Claims Tribunal, Special Subordinate Judge Dharmapuri to the file of this Court.

2)Prayer in Tr.CMP No.255/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of Constitution of India, to withdraw and transfer the petition in MCOP No.805/2019, on the file of the learned Motor Accident Claims Tribunal, Special Subordinate Judge Dharmapuri to the file of this Court.

3)Prayer in Tr.CMP No.256/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of Constitution of India, to withdraw and transfer the petition in MCOP No.47/2019, on the file of the learned Motor Accident Claims Tribunal, Subordinate Judge Omalur to the file of this Court.

4)Prayer in Tr.CMP No.257/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of Constitution of India, to withdraw and transfer the petition in MCOP No.262/2019, on the file of the learned Motor Accident Claims Tribunal, Subordinate Judge Tiruchengode to the file of this Court.

5)Prayer in Tr.CMP No.258/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of Constitution of India, to withdraw and transfer the petition in MCOP No. 401/2019, on the file of the learned Motor Accident Claims Tribunal, Subordinate Judge Tiruchengode to the file of this Court.

6)Prayer in Tr.CMP No.259/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of Constitution of India, to withdraw and transfer the petition in

MCOP No. 645/2014, on the file of the learned Motor Accident Claims Tribunal, Additional District Judge (FTC) Kanchipuram to the file of this Court.

7)Prayer in Tr.CMP No.260/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of Constitution of India, to withdraw and transfer the petition in MCOP No. 42/2015, on the file of the learned Motor Accident Claims Tribunal, Subordinate Judge Kanchipuram to the file of this Court.

8)Prayer in Tr.CMP No.261/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of Constitution of India, to withdraw and transfer the petition in MCOP No. 392/2019, on the file of the learned Motor Accident Claims Tribunal, Additional District Judge Kallakurichi to the file of this Court.

9)Prayer in Tr.CMP No.262/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of Constitution of India, to withdraw and transfer the petition in MCOP No. 446/2019, on the file of the learned Motor Accident Claims Tribunal, Additional District Judge Kallakurichi to the file of this Court.

10)Prayer in Tr.CMP No.263/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of Constitution of India, to withdraw and transfer the petition in MCOP No. 3433/2019, on the file of the learned Motor Accident Claims Tribunal, VI Small Causes Court, Chennai to the file of this Court.

For Petitioners : Mr R.Sankaranarayanan, Senior Advocate,
(in Tr.CMP No.258/2020 against MCOP
No.401/2019)

: Mr. N.Vijayaraghavan
(in Tr CMP Nos.254,255,256,257,259,260
& 263/2020 against MCOP Nos.803/2019,
805/2019, 47/2019, 262/2019, 645/2014,
42/2015 & 3433/2019)

: Mr V. Lakshminarayanan
(in Tr.CMP No.262/2020 against MCOP
No.446/2019)

: Mr N.P. Vijayakumar
(in Tr.CMP No.261/2020 against MCOP
No.392/2019)

COMMON ORDER

The Petitioner Insurer has filed 9 Memos dated 06/05/2020 and 1 Memo dated 07/05/2020 in relation to 10 MCOPs, pending on the file of various Claims Tribunals in Tamil Nadu as has been tabulated below. The said tabulation also indicates the amounts for which each of the claimants in the ten MCOPs have agreed for Compromise.

S No.	MCOP No. & MACT	Petitioner Name	Petitioner Advocate & Ph No.	Amount
1	803/2019 SSJ Dharmapuri	Kunjammal	Dinakaran MN 9443362602	Rs. 37,000/-
2	805/2019 SSJ Dharmapuri	Chinnasamy	Dinakaran MN 9443362602	Rs. 25,000/-
3	47/2019 Sub Court, Omalur	V. Murugan	Palanisamy M 8667393674	Rs. 290,000/-
4	262/2019 Sub Court Tiruchengode	Mohankumar S	Karthikeyan K 9842209336	Rs. 190,000/-
5	401/2019 Sub Court Tiruchengode	Kathiravan M	Senthilkumar P 9842854611	Rs. 350,000/-
6	645/2014 ADJ (FTC) Kanchipuram	Ramalakshmi & 2 Others	Elumalai R 9443382820	Rs. 18,00,000/-
7	42/2015 Sub Court Kanchipuram	Balakrishnan	Elumalai R 9443382820	Rs. 6,00,000/-
8	392/2019 ADJ Kallakurichi	Vasanthi & 5 Others	Elaiyaraja 9751912502	Rs. 12,50,000/-
9	446/2019 ADJ Kallakurichi	Kuppan	Elaiyaraja 9751912502	Rs. 2,72,000/-
10	3433/2019 VI MACT Chennai	Titus Thiagarajan	Ramesh KM 9444176173	Rs. 1,25,000/-

2.The Petitioner has relied upon the Orders of this Court dated 05/05/2020 made in Tr. CMP No 231/2020 (Batch). As per the said Judgment, by a detailed Order with reasons, this Court had accepted a similar Memo filed by another Insurance Company namely, M/s Cholamandalam MS General Insurance Co. Ltd., and permitted the withdrawal of 23 such Motor Accident Claim

Petitions (MCOPs) and recorded compromise of those claims, as agreed to by the Parties.

3.This court approved the consent of the Insurer vide Memo and the consent of the claimants vide WhatsApp Messages through the counsel for the claimants, in all the 23 MCOPs. This Court, upon such satisfaction, granted the relief and recorded compromise of all the 23 MCOPs claims, at the instance of M/s Cholamandalam MS General Insurance Co Ltd.

4.In respect of these 10 Memos dated 06/05/2020 and 07/05/2020, the Petitioner Insurance Company, M/s Tata AIG General Insurance Co Ltd., has confirmed its consent for compromising all the 10 MCOPs as per the amounts indicated in the tabulation drawn above.

5.In respect of the consent of the claimants, the Insurer has produced 7 E-Mails and two consent letters by WhatsApp, (6 E-Mails dated 06/05/2020, 1 E-Mail dated 27/04/2020, a consent letter dated 06/05/2020 by WhatsApp and one WhatsApp message dated 07/05/2020), from the said counsel, agreeing for the respective amounts in the tabulation drawn above.

6.In the Memos dated 06/05/2020 and 07/05/2020, the insurer has confirmed that the consent between the parties is true and genuine. The counsel for the claimants have confirmed to the insurer that the 7 E-Mails and 2 WhatsApp messages have been sent with the consent of the respective claimants.

7.The said claimants, for lack of immediate internet access, have not sent their individual consents to their counsel. However, the insurer and the counsel for the claimants have submitted, that the claimants are agreeable for the compromise and the E-Mails/consent letters by Whatsapp sent by their advocates be accepted as consent for the same. The names of the Advocates for the claimants are furnished with their respective mobile numbers.

8.I am satisfied that there is consensus ad idem for this compromise between the parties, and for recording the same in the 10 MCOPs. This Court does not feel the need to reiterate the detailed reasons given by it, in the orders dated 05/05/2020 in Tr. CMP 231/2020 (Batch). The said reasons are fully applicable for granting the reliefs to the parties in these cases as well.

9.In the result, the 9 Memos dated 06/05/2020 and one Memo dated 07/05/2020 filed by the Petitioner Insurance Company are

ordered as prayed for. Accordingly, the said 10 MCOPs are withdrawn from the respective Claims Tribunals, to this Court and compromise is recorded for the respective sums, as agreed vide the tabulation attached above.

10.Hence, the following directions are issued.

i) MCOP No 803/2019 on the file of the Motor Accident Claims Tribunal cum Special Subordinate Judge, Dharmapuri shall stand withdrawn to this Court and stand compromised for Rs. 37,000/- in full quit.

ii) MCOP No 805/2019 on the file of the Motor Accident Claims Tribunal cum Special Subordinate Judge, Dharmapuri shall stand withdrawn to this Court and stand compromised for Rs. 25,000/- in full quit.

iii) MCOP No 47/2019 on the file of the Motor Accident Claims Tribunal cum Subordinate Judge, Omalur shall stand withdrawn to this Court and stand compromised for Rs. 2,90,000/- in full quit.

iv) MCOP No 262/2019 on the file of the Motor Accident Claims Tribunal cum Subordinate Judge, Tiruchengode shall stand withdrawn to this Court and stand compromised for Rs. 1,90,000/- in full quit.

v) MCOP No 401/2019 on the file of the Motor Accident Claims Tribunal cum Subordinate Judge, Tiruchengode shall stand withdrawn to this Court and stand compromised for Rs. 3,50,000/- in full quit.

vi) MCOP No 645/2014 on the file of the Motor Accident Claims Tribunal cum Additional District Judge (FTC), Kanchipuram shall stand withdrawn to this Court and stand compromised for Rs. 18,00,000/- in full quit. The Compromise sum shall be shared equally by the claimants, being the widow, father and mother of the deceased victim.

Vii)MCOP No.42/2015 on the file of the Motor Accident Claims Tribunal cum Subordinate Judge Kanchipuram shall stand withdrawn to this Court and stand compromised for Rs. 6,00,000/- in full quit.

Viii) MCOP No 392/2019 on the file of the Motor Accident Claims Tribunal cum Additional District Judge, Kallakurichi shall stand withdrawn to this Court and stand compromised for Rs. 12,50,000/- in full quit. By

WhatsApp message dated 07/05/2020 (annexed to the Memo dated 07/05/2020), the counsel for the claimants has certified that the compromise is for the benefit of the 3 minor children. It is agreed that the shares of the minors may be invested in a Nationalised Bank until the minors attained majority. Accordingly, the claimants shall share the compromise award amount as follows:

- i. The widow shall be entitled to Rs. 4,50,000/- ;
- ii. the parents shall be entitled to Rs. 1,00,000/- each; and
- iii. the three minors shall be entitled to Rs. 2,00,000/- each.

The shares of the minors shall be invested in a Nationalised Bank until they attain majority. The widow shall be at liberty to approach the Claims Tribunal for permission to withdraw periodical interest on the investment made in the names of the minors for their welfare.

ix) MCOP No 446/2019 on the file of the Motor Accident Claims Tribunal cum Additional District Judge, Kallakurichi shall stand withdrawn to this Court and stand compromised for Rs. 2,72,000/- in full quit.

x) MCOP No 3433/2019 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai shall stand withdrawn to this Court and stand compromised for Rs. 1,25,000/- in full quit.

xi) It is therefore, directed that the Petitioner Insurance Company shall satisfy the respective compromised amounts in the 10 MCOPs and deposit the respective award amounts to the credit of the respective MCOPs, on the file of the respective Claims Tribunals.

Xii) The Petitioner Insurer Company shall deposit the respective compromised award amounts within 2 weeks from the date of receipt of this Order by E-Mail.

Xiii) Upon such deposit, the claimants would be entitled to withdraw the same on proper identification by the counsel for the claimants, in a manner known to law. In respect of MCOP No. 392 /2019, on the file of Additional District Judge, Kallakurichi, interest of the minors shall be protected in accordance with the direction issued in that case.

Xiv) It is hereby directed that the Registry shall send a Copy of this Order to the Counsel for the Petitioner by E-Mail who shall in turn send a copy of the same to

the respective Counsel for the Claimants, to confirm the Compromise Awards.

xv) The Registry is further directed to send copies of this Order by Email to the respective Motor Accident Claims Tribunals, for the present, for compliance. The Claims Tribunals shall treat the copy of this order received by it from this Court through E-Mail, as its Certified Copy. As and when, normalcy returns after the viral pandemic impact, the Registry shall send hard copies of this Order, duly certified to the respective Claims Tribunals for the record.

Xvi) In fine, the 9 Memos dated 06/05/2020 and one Memo dated 07/05/2020 filed by the Petitioner Insurer are Ordered as prayed for and all parties hereto shall comply with the same. No orders as to costs in these proceedings.

Sd/-

Assistant Registrar(AD I)MDU

//True Copy//

Sub Assistant Registrar

KP

To

- 1.The Special Subordinate Judge Dharmapuri
- 2.The Subordinate Judge Omalur
- 3.The Subordinate Judge Tiruchengode
- 4.The Additional District Judge (FTC) Kanchipuram
- 5.The Subordinate Judge Kanchipuram
- 6.Additional District Judge Kallakurichi
7. VI Motor Accident Claims Tribunal Chennai,VI Small Causes Court, Chennai.
- 8.Mr.N Vijayaraghavan Counsel for Petitioners (vijayaraghavan.nv@gmail.com)
- 9.M/s/Tata AIG General Insurance Ltd-Petitioner (v.ravishankar@tatagig.com)

Common Order in
Tr. CMP. Nos.254 to 263 of 2020

LN (CO)

KKV/24/08/2020