



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2021

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CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.Nos.855/14, 228/13, 229/13, 230/13, 933/14,  
231/13, 232/13, 227/13, 226/13 & 233/13  
and M.P.Nos.1 to 1 of 2013

CMA.NO.226 OF 2013

ICICI Lombard General Insurance Company Limited,  
Mumbai 400 034 ... Appellant/4<sup>th</sup> Respondent  
vs

1.Gunasekaran ... 1<sup>st</sup> & 2<sup>nd</sup> Respondents/Petitioners  
2.Nagabushnam  
3.N.Raghuraman

4. United India Insurance Company Ltd.,  
No.9, Shanmugam Road, Tambaram West,  
Chennai - 600 045.

5.Mr.M.R.Govindan ... Respondents 3 to 5/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Chengalpattu, made in MCOP.No.469 of 2006, dated 27.06.2011.

CMA.227 of 2013 & 933 of 2014

1.S.Manjula  
2.Minor S.Sathish  
3.Minor S.Swetha  
4.Minor S.Mithoon  
(Minors 2 to 4 rep by their mother  
S.Manjula, the 1<sup>st</sup> Respondent herein  
as their natural guardian and next friend)  
5.L.Selvi  
6.K.Loganathan ... Appellants/Petitioner in CMA.933 of 2014/  
Respondents 1 to 6 in CMA.227 of 2013  
VS

1.M.Kandan



2.United India Insurance Company Ltd.,  
No.9, Shanmugam Road, Tambaram West,  
Chennai - 600 045.

3.M.R.Govindan

... Respondents 1 to  
3/Respondents in CMA.933 of 2014/  
Respondents in CMA.227 of 2013

4.ICICI Lombard General Insurance Company Limited,  
Mumbai 400 034

... 4<sup>th</sup> Respondent/Respondent in CMA.933  
of 2014/ Appellant in CMA.277 of 2013

Civil Miscellaneous Appeal is filed under Section 173 of  
the Motor Vehicles Act, 1988 against the Judgment and Decree of  
the Motor Accident Claims Tribunal, Principal Subordinate Judge,  
Chengalpattu, made in MCOP.No.425 of 2006, dated 28.06.2011.

CMA.No.855 of 2014 & CMA.No.228 of 2013:

1.V.Jamunarani

2.Minor V.Srimathi

3.Minor V.Srilekha

4.Minor V.Abiraj

(A2 to A4 represented by Next

Friend & Natural Guardian 1<sup>st</sup> Appellant)

5.S.Boopathiammal

... Appellants/Petitioner

1 to 5 in CMA.855 of 2014/

Respondents 1 to 5 in CMA.228 of 2013

VS

1.Mr.M.R.Govindan

... 1<sup>st</sup> Respondent in CMA.855 of 2014/

6<sup>th</sup> Respondent in CMA.228 of 2013

2.ICICI Lombard General Insurance Company Limited,  
Mumbai 400 034.

... 2<sup>nd</sup> Respondent in CMA.855 of 2014 /  
Appellant in CMA.228 of 2013

3.M.Kandan

... 3<sup>rd</sup> Respondent in CMA.855 of 2014/

7<sup>th</sup> Respondent in CMA.228 of 2013

4. United India Insurance Company Ltd.,  
No.9, Shanmugam Road, Tambaram West,  
Chennai - 600 045.

... 4<sup>th</sup> Respondent in CMA.N.855 of 2014/  
8<sup>th</sup> Respondent in CMA.228 of 2013

Civil Miscellaneous Appeal is filed under Section 173 of



the Motor Vehicles Act, 1988 against the Judgment and Decree of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Chengalpattu, made in MCOP.No.426 of 2006, dated 28.06.2011.

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CMA.229 of 2013

ICICI Lombard General Insurance Company Limited,  
Mumbai 400 034 ... Appellant/4<sup>th</sup> Respondent

vs

1.Anbu ... 1<sup>st</sup> Respondent/Petitioner  
2.N.Raghuraman  
3.United India Insurance Company Ltd.,  
No.9, Shanmugam Road, Tambaram West,  
Chennai - 600 045.

4.Mr.M.R.Govindan ... Respondents 2 to 4/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Chengalpattu, made in MCOP.No.443 of 2006, dated 27.06.2011.

CMA.230 of 2013

ICICI Lombard General Insurance Company Limited,  
Mumbai 400 034 ... Appellant/4<sup>th</sup> Respondent

vs

1.Gunasekaran ... 1<sup>st</sup> Respondent/Petitioner  
2.N.Raghuraman  
3.United India Insurance Company Ltd.,  
No.9, Shanmugam Road, Tambaram West,  
Chennai - 600 045.

4.Mr.M.R.Govindan ... Respondents 2 to 4/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Chengalpattu, made in MCOP.No.471 of 2006, dated 27.06.2011.

CMA.231 of 2013

ICICI Lombard General Insurance Company Limited,  
Bandra, Mumbai 400 051. ... Appellant/4<sup>th</sup> Respondent



vs

1.Ranjithkumar

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

2.N.Raghuraman

3.United India Insurance Company Ltd.,  
No.9, Shanmugam Road, Tambaram West,  
Chennai - 600 045.

4.Mr.M.R.Govindan

... Respondents 2 to 4/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Chengalpattu, made in MCOP.No.34 of 2007, dated 27.06.2011.

CMA.232 of 2013

ICICI Lombard General Insurance Company Limited,  
Mumbai 400 034

... Appellant/4<sup>th</sup> Respondent

vs

1.Surender

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

2.N.Raghuraman

3.United India Insurance Company Ltd.,  
No.9, Shanmugam Road, Tambaram West,  
Chennai - 600 045.

4.Mr.M.R.Govindan

...Respondents 2 to 4/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Chengalpattu, made in MCOP.No.38 of 2007, dated 27.06.2011.

CMA.233 of 2013

ICICI Lombard General Insurance Company Limited,  
Mumbai 400 034

... Appellant/4<sup>th</sup> Respondent

vs

1.Balakrishnan

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

2.N.Raghuraman

3.United India Insurance Company Ltd.,  
No.9, Shanmugam Road, Tambaram West,  
Chennai - 600 045.



4.Mr.M.R.Govindan

...Respondents 2 to 4/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Chengalpattu, made in MCOP.No.280 of 2007, dated 27.06.2011.

|                                 |                                                           |
|---------------------------------|-----------------------------------------------------------|
| Appellant in CMA:226 of 2013    |                                                           |
| Appellant in CMA:227 of 2013    |                                                           |
| Appellant in CMA:228 of 2013    |                                                           |
| Appellant in CMA:229 of 2013    |                                                           |
| Appellant in CMA:230 of 2013    |                                                           |
| Appellant in CMA:231 of 2013    |                                                           |
| Appellant in CMA:232 of 2013    |                                                           |
| Appellant in CMA:233 of 2013    | : For ICIC Insurance Company<br>Mrs.R.Srividhya, Advocate |
| Respondent 4 in CMA.933 of 2014 |                                                           |
| Respondent 2 in CMA.855 of 2014 |                                                           |

|                                 |                                                                               |
|---------------------------------|-------------------------------------------------------------------------------|
| Appellant in CMA: 993 of 2014   |                                                                               |
| Appellant in CMA:855 of 2014    | For Claimants<br>Mr.Amar D.Pandiyan, Advocate<br>for Mr.P.Natarajan, Advocate |
| Respondent                      |                                                                               |
| For R1 & R2 in CMA: 226 of 2013 |                                                                               |
| For R1 to R3 in CMA:227 of 2013 |                                                                               |
| For R1 to 5 in CMA: 228 of 2013 |                                                                               |
| For R1 in CMA:229 of 2013       |                                                                               |
| For R1 in CMA:230 of 2013       |                                                                               |
| For R1 in CMA:231 of 2013       |                                                                               |
| For R1 in CMA:232 of 2013       |                                                                               |
| For R1 in CMA:233 of 2013       |                                                                               |

|                            |                                             |
|----------------------------|---------------------------------------------|
| Respondent                 |                                             |
| For R4 in CMA: 226 of 2013 | For United Insurance Company<br>Mr.D.Baskar |
| For R8 in CMA: 227 of 2013 |                                             |
| For R2 in CMA:993 of 2014  |                                             |
| for R2 in CMA:855 of 2014  |                                             |
| for R8 in CMA:228 of 2013  |                                             |
| for R3 in CMA:229 of 2013  |                                             |
| for R3 in CMA:230 of 2013  |                                             |
| for R3 in CMA:231 of 2013  |                                             |
| for R3 in CMA:232 of 2013  |                                             |
| for R3 in CMA:233 of 2013  |                                             |



## COMMON JUDGMENT

(The case has been heard through video conference)

These appeals have been filed challenging the awards passed in M.C.O.P.Nos.469/06, 425/06, 426/06, 443/06, 471/06, 34/07, 38/07 and 280/07, by the Motor Accidents Claims Tribunal, Principal Subordinate Court, Chengalpattu, dated 27.06.2011 and 28.06.2011 respectively.

2. C.M.A.Nos.226, 227, 228, 229, 230, 231, 232 and 233 of 2013 have been filed by the insurance company challenging the contributory negligence fixed by the Tribunal at 50% as against the driver of their insured lorry. C.M.A.Nos.933 and 855 of 2014 have been filed by the claimants seeking for enhancement of compensation awarded by the Tribunal in M.C.O.P.Nos.425 and 426 of 2006.

3. Admittedly, the lorry insured by the ICICI Lombard General Insurance Ltd., was involved in a head on collision with the car insured with the United India Insurance Company Limited, which is also a party to all the claim petitions. Being a head on collision, as seen from the evidence available on record, the Tribunal has rightly fixed the contributory negligence on the part of the driver of the lorry insured with ICICI Lombard General Insurance Ltd., as well as the car insured with the United India Insurance Company Ltd., in the ratio of 50 : 50.

4. This Court does not find any infirmity in the findings of the Tribunal. No coherent evidence has been produced by the ICICI Lombard General Insurance Ltd., to disprove the findings of the Tribunal under the impugned Awards. Hence, the fixation of contributory negligence by the Tribunal between the two vehicles in the ratio of 50 : 50 is confirmed by this Court.

5. In so far as the quantum of compensation awarded by the Tribunal to the claimants who are the appellants in C.M.A.Nos.933 of 2014 and 855 of 2014 are concerned, the learned counsel for the claimants fairly concedes that the claimants are not entitled for any enhancement of compensation and the same is recorded by this Court.

6. For the foregoing reasons, there is no merit in these appeals and accordingly all these appeals are dismissed and the impugned awards passed by the Tribunal are hereby confirmed. The Insurance Companies are directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of



M.C.O.P.Nos.469/2006, 425/2006, 426/2006, 443/2006, 471/2006, 34/2007, 38/2007 and 280/2007 respectively, on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Court, Chengalpattu. On such deposit of the compensation amount, the claimants are permitted to withdraw their respective award amount as directed by the Tribunal along with interest and costs, less the amount, if any, already withdrawn by making necessary applications before the Tribunal. So far as the amount awarded to the minor claimants are concerned, the amount should be deposited in a fixed deposit in a nationalised bank as directed by the Tribunal and the accrued interest shall be withdrawn as directed by the Tribunal. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-  
Assistant Registrar(CS-I)

//True Copy//

Sub Assistant Registrar

kk

To

1. The Motor Accidents Claims Tribunal,  
Principal Subordinate Court, Chengalpattu.
2. The Section Officer,  
VR Section, High Court, Madras.

+1cc to Mr.Srividya, Advocate SR.No.52622  
+10cc to Mr.P.Natarajan, Advocate SR.No.52892, 52893, 52887,  
52886, 52885, 52884, 52883, 52691, 52890, 52889

C.M.A.Nos.855/14, 228/13, 229/13,  
230/13, 933/14, 231/13, 232/13, 227/13,  
226/13 & 233/13 and M.P.Nos.1 to 1 of 2013

CNR(CO)  
GN(12/01/2022)