



*C.M.A.Nos.3530 to 3534 of 2006  
& C.M.A.No.1298 of 2013*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2023

C O R A M

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

C.M.A.Nos.3530 to 3534 of 2006 & C.M.A.No.1298 of 2013  
and M.P.Nos. 1,1,1,1 & of 2006 & M.P.No.1 of 2013

C.M.A.No.3530 of 2006

Divisional Manager,  
National Insurance Company Ltd.,  
No.19 Officers Line,  
Vellore.

...Appellant/3<sup>rd</sup> Respondent

Vs

1.Muniappan  
2.Meenakshi  
3.Muniammal  
4.Raman

... Respondents 1 to 4  
/Petitioners 1 to 4

5.Veda

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

6.M/s.Subathra Spinning  
Mills Private Limited,  
No.20, Judicial Officers Lay out,  
R.M.V. 2<sup>nd</sup> Street,  
Sanjaya Nagar,  
Bangalore 560 094.

... 6<sup>th</sup> Respondent /2<sup>nd</sup> Respondent



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7.Manager,  
Royal Sundaram Alliance  
Insurance Company Ltd.  
No.46, Whites Road,  
Chennai-600 014.

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

**Prayer in CMA.No.3530 of 2006:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgement and decree dated 28.11.2005 and made in M.A.C.T.O.P.No.73/2004 on the file of the Motor Accident Claims Tribunal, Thiruvannamalai (District Court, Thiruvannamalai).

**C.M.A.No.3531 of 2006**

The Divisional Manager,  
National Insurance Company Ltd.,  
Vellore.

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

Vs

1.Subramanian  
2.Parvathy

... Respondents 1 & 2  
/Petitioners 1 & 2

3.Veda

... 3<sup>rd</sup> Respondent  
/1<sup>st</sup> Respondent

4.The Managing Director,

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M/s.Subathra Spinning  
Mills Private Limited,  
Bangalore.

... 4<sup>th</sup> Respondent  
/3<sup>rd</sup> Respondent

5.Manager,  
Royal Sundaram Alliance  
Insurance Company Ltd.  
No.46, Whites Road,  
Chennai-600 014.

.... 5<sup>th</sup> Respondent /3<sup>rd</sup> Respondent

**Prayer in CMA.No.3531 of 2006:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Judgement ad decree dated 27.12.2005 and made in M.A.C.T.O.P.No.119/2004 on the file of the Motor Accident Claims Tribunal, Thiruvannamalai (District Court, Thiruvannamalai).

C.M.A.No.3532 of 2006

The Divisional Manager,  
National Insurance Company Ltd.,  
No.189, Officers Line,  
Vellore.

... Appellant/3<sup>rd</sup> Respondent

Vs.

1.Ruthirappa Reddiar

2.Kalkiammal

... Respondents 1 & 2  
/Petitioners 1 & 2

3.Veda

... 3<sup>rd</sup> Respondent/1<sup>st</sup> Respondent

4.M/s,Subathra Spinning

3/22



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Mills Private Limited,  
No.20, Judicial Officers Lay out,  
R.M.V.2<sup>nd</sup> Street,  
Sanjaya Nagar,  
Bangalore 560 094.

...4<sup>th</sup> Respondent/2<sup>nd</sup> Respondent

5.Manager,  
Royal Sundaram Alliance,  
Insurance Company Ltd.,  
No.46m Whites Road,  
Chennai-600 014.

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

**Prayer in CMA.3532 of 2006:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 28.11.2005 and made in M.A.C.T.O.P.No.475/2004 on the file of the Motor Accident Claims Tribunal, Thiruvannamalai (District Court, Thiruvannamalai).

**C.M.A.No.3533 of 2006**

The Divisional Manager,  
National Insurance Company Ltd.,  
No.189, Officers Line,  
Vellore.

... Appellant/3<sup>rd</sup> Respondent

Vs.

1.Santhi

2.Rajendran

... Respondents 1 & 2  
/Petitioners 1 & 2

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3.Veda

... 3<sup>rd</sup> Respondent/1<sup>st</sup> Respondent

4.M/s,Subathra Spinning  
Mills Private Limited,  
No.20, Judicial Officers Lay out,  
R.M.V.2<sup>nd</sup> Street,  
Sanjaya Nagar,  
Bangalore 560 094.

...4<sup>th</sup> Respondent/2<sup>nd</sup> Respondent

5.Manager,  
Royal Sundaram Alliance,  
Insurance Company Ltd.,  
No.46m Whites Road,  
Chennai-600 014.

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

**Prayer in CMA.3533 of 2006:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 28.11.2005 and made in M.A.C.T.O.P.No.476/2004 on the file of the Motor Accident Claims Tribunal, Thiruvannamalai (District Court, Thiruvannamalai).

**C.M.A.No.3534 of 2006**

The Divisional Manager,  
National Insurance Company Ltd.,  
No.189, Officers Line,  
Vellore.

... Appellant/3<sup>rd</sup> Respondent

Vs.

1.Gundu Reddiar

2.Rajakumar

... Respondents 1 & 2

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/Petitioners 1 & 2

3.Veda

... 3<sup>rd</sup> Respondent/1<sup>st</sup> Respondent

4.M/s,Subathra Spinning  
Mills Private Limited,  
No.20, Judicial Officers Lay out,  
R.M.V.2<sup>nd</sup> Street,  
Sanjaya Nagar,  
Bangalore 560 094.

...4<sup>th</sup> Respondent/2<sup>nd</sup> Respondent

5.Manager,  
Royal Sundaram Alliance,  
Insurance Company Ltd.,  
No.46m Whites Road,  
Chennai-600 014.

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

**Prayer in CMA.3534 of 2006:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 28.11.2005 and made in M.A.C.T.O.P.No.477/2004 on the file of the Motor Accident Claims Tribunal, Thiruvannamalai (District Court, Thiruvannamalai).

**C.M.A.No.1298 of 2013**

The Divisional Manager,  
National Insurance Company Ltd.,  
Officers Line,  
Opp. To Lakshmi Theatre

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***C.M.A.Nos.3530 to 3534 of 2006  
& C.M.A.No.1298 of 2013***

Vellore.

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

Vs.

1.Latha

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

2.The Managing Director,  
Subathra Spinning Mill Private Ltd.,  
Mahathi Road,  
Dasara Hall,  
Bangalore 560 079

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

3.The Manager,  
Royal Sundaram Alliance,  
Insurance Company Ltd.,  
No.46m Whites Road,  
Chennai-600 014. Veda

... 3<sup>rd</sup> Respondent/2<sup>nd</sup> Respondent

4.S.Veda

... 4<sup>th</sup> Respondent/3<sup>rd</sup> Respondent

**Prayer in CMA.1298 of 2013:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgement and Decree dated 23.02.2007 and made in M.A.C.T.O.P.No.617/2004 on the file of the Motor Accident Claims Tribunal Tiruvannamalai (Motor Accident Claims Tribunal cum Additional Subordinate Judge, Tiruvannamalai).

**In all CMAs :**

For Appellant ... Mr.S.Vadivel  
(In all CMAs)



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For Respondents

- ... Mrs.A.Subadra  
for M/s.Akila Kosalram for R1  
(In C.M.A.No.3530 of 2006)
- ... Mrs.A.Subadra  
for P.Balamurugan for R2 to R4  
(In C.M.A.No.3530 of 2006)
- ... Mr.E.Rajadurai  
for M/s.N.Vijayaraghavan for R7  
(In C.M.A.No.3530 of 2006)
- ... for R5 (In C.M.A.No.3531 to 3534 of 2006)  
... for R3 (In C.M.A.No.1298 of 2013)
- ... Mr.B.Gopalakrishnan for R1  
(In C.M.A.No.3531 of 2006)
- ... No Appearance  
for R5 & R6 (In C.M.A.No.3530 of 2006)  
for R3 & R4 (In C.M.A.No.3531 to 3534 of 2006)  
for R1 & R4 (In C.M.A.No.1298 of 2013)
- ... R2-Died (Steps due)  
(In C.M.A.No.3531 of 2006)

**COMMON JUDGMENT**

All the appeals arise out of single accident.

2. The present appeals have been filed by the appellant-Insurance



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company challenging the impugned award passed by the Motor Accident Claims Tribunal in M.A.C.T.O.P.Nos.73, 477, 475, 476, 119 & 617 of 2004 on the ground that already compensation was paid to the respective respondents/claimants under the Workmen's Compensation Act, pursuant to the claim made under the Act. However, subsequently, the respondents again filed the claim petitions under Section 166 of the Motor Vehicles Act, claiming compensation and obtained an award in their favour wherein the Tribunal had mechanically held in favour of the respondents by awarding compensation in the respective claim petitions directing the appellant-insurance company to pay the compensation.

3. Learned counsel appearing for the appellant-insurance company would submit that admittedly two vehicles were involved in the accident. It is claimed that at the time of accident, the respective deceased persons and the injured were travelling in a van belonging to M/s.Subathra Spinning Mills Private Limited insured with the Royal Sundaram Insurance Company Limited. Due to the rash and negligent driving of the said vehicle the respective



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deceased lost their lives and one of them suffered grievous injuries. Aggrieved by which, the injured persons and the dependants of the deceased filed claim petitions under the Workmen's Compensation Act as against the owner of the vehicle, pursuant to which, the compensation was paid by the appellant-Insurance Company. However, subsequently, pursuant to the claim made under Section 166 of the Motor Vehicles Act, the Tribunal has passed an award directing payment of compensation without deducting the award amount which was already paid under the Workmen's Compensation Act and on the sole ground the present appeals are filed.

4. Per Contra, learned counsel appearing for the Respondents/Claimants would submit that admittedly, the respective deceased and the injured person were travelling in the tempo belonging to their employer namely M/s.Subathra Spinning Mills Private Limited which was driven in a rash and negligent manner thereby the said accident had taken place. The claim made under the Workmens Compensation Act would not hit the claim made by the claimants under the Motor Vehicles Act as both the claims arise under different

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conditions and, therefore, rightly appreciating the above, the Tribunal granted compensation under the Workmens' Compensation Act, which does not require any interference.

5. This Court heard the learned counsel appearing for the appellant-Insurance Company, learned counsel appearing for the respondents/ Claimants and perused the materials available on record.

6. Admittedly, the respondents/claimants are the employees of M/s.Subathra Spinning Mills Private Limited who travelled in a tempo van belonging to their employer insured with the Royal Sundaram Alliance Insurance Company Limited. It is not in issue that the said vehicle was driven in a rash and negligent manner and it dashed against the stationed lorry owned by one Veda, which was also insured with the appellant-Insurance Company thereby causing fatal injuries to some of the employees who were travelling in the tempo van and some persons sustained grievous injuries. Aggrieved by the said accident, the respondents/claimants filed the claim petitions as against the



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employer, who is the owner of the tempo van under the Workmen's Compensation Act, pursuant to which, the insurer of the offending vehicle paid the compensation to the dependants of the deceased and the injured person indemnifying the employer. However, subsequently, the respondents/claimants have filed claim petitions under Section 166 of the Motor Vehicles Act before the Motor Accident Claims Tribunal claiming compensation with regard to the said accident. However, the Tribunal without deducting the award amount already paid under the Workmen's Compensation Act had passed the impugned award directing the appellant-Insurance Company to pay the compensation amount to the respondents/claimants.

7. The main contention advanced on behalf of the appellant is that the amount which has already been paid should be deducted while computing compensation under the Motor Vehicle Act, as both the compensations are in respect of the very same accident.

8. There is no quarrel with regard to the claim made under the



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Workmen's Compensation Act. However, the claim made under Section 166 of the Motor Vehicles Act is put in issue by claiming that deduction ought to be made with regard to the claim already given by the appellant under the Workmen's Compensation Act.

9. It is to be noted that two vehicles were involved in the accident, one is the lorry belonging to the employer of the claimants and the other is of one Veda and both the vehicles were insured with the appellant. The claim at the first instance under the Workmen's Compensation Act is a claim in which an employee seeks compensation for the injuries suffered by them in the course of their employment with the employer which has to be borne by the employer. In the present case, the employer, on his part had taken the insurance with the appellant and to indemnify the employer, the appellant had paid the compensation under the Workmen's Compensation Act.

10. However, the claim petition filed u/s 166 of the Motor Vehicles Act has been filed in relation to the accident in which the claimants and the



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deceased persons suffered injuries and it is only with regard to the said accident compensation is sought for.

11. It should not be lost sight of that the claim under the Workmen's Compensation Act is with reference to the injuries suffered in the course of the employment, which had resulted in the employee not able to work and, thereby, not able to earn his livelihood, which is taken into consideration while arriving at the compensation. The provision under the Workmen's Compensation Act provides for the manner in which computation of compensation is to be made.

12. However, under the Motor Vehicles Act, it is not only for the loss of earnings that compensation is paid, it is also paid considering the future earning potential, the pain and suffering suffered and under many other heads, depending upon whether the accident is fatal or in which the injured suffered injuries. Both the compensation cannot be equated together. Further, the accident involving two vehicles, resultantly the insurer of the vehicles is bound



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to pay the compensation.

13. However, it is claimed by the appellant that already a compensation is paid under the Workmen's Compensation Act and, therefore, any compensation computed under the Motor Vehicles Act should be only after subtracting the compensation paid under the Workmen's Compensation Act.

14. It is to be noted that both the Workmen's Compensation Act as also the Motor Vehicles Act are benevolent legislations, which were enacted to safeguard the interests of the employees/third parties as also the persons travelling in the vehicle, based on the nature of insurance availed. However, the Workmen's Compensation Act as also the Motor Vehicles Act provide for computing the compensation towards the loss of earnings of the injured/victim in the accident. Once a computation is made under one enactment and payment is made by the insurer, without deducting the said portion from the other claim, granting compensation in entirety computed under the other enactment is impermissible. In fact provision is provided under Section 167 of



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the Motor Vehicles Act to the said effect.

15. However, it should not be lost sight of that under the Motor Vehicles Act, the injured/victim is also entitled for certain other compensation. The Motor Vehicles Act also being a benevolent legislation, the benefit of the said legislation has to flow to the injured/victim, but at the same time, not causing loss to the insurer by means of double payment. In the case on hand, while compensation has been paid under the Workmen's Compensation Act for the loss of earnings, the same set of claim cannot be allowed under the Motor Vehicles Act. Therefore, any computation made under the Motor Vehicles Act in respect of heads of claim, which have already been paid under the Workmen's Compensation Act, the said portion of the claim ought to be deducted from the claim made under the Motor Vehicles Act before any compensation is awarded to the injured/victim.

16. Section 167 of the Motor Vehicles Act provides that it is for the injured/legal heirs of the deceased to claim compensation either under the



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Motor Vehicles Act or the Workmen's Compensation Act with regard to an accident that had taken place in the course of employment. Option is left to the claimant to claim compensation under any one of the two enactments. However, the claim can be made only under one of the enactment and not under both. For better appreciation, Section 167 of the Motor Vehicles Act is quoted hereunder:-

***"167. Option regarding claims for compensation in certain cases. –***

*Notwithstanding anything contained in the Workmen's Compensation Act, 1923 (8 of 1923) where the death of, or bodily injury to, any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to compensation may without prejudice to the provisions of Chapter X claim such compensation under either of those Acts but not under both."*

17. In the case on hand, while the injured and also the heirs of the deceased made claim and received compensation under the Workmen's Compensation Act, thereafter, they have once again sought the compensation in respect of the very same accident under the Motor Vehicles Act. As provided for u/s 167 of the Motor Vehicles Act, claim can be made only under



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any one of the enactments and not under both. However, it is to be pointed out that both the legislations are benevolent legislations and are intended for the welfare of the claimants and, therefore, the same has to be construed in proper perspective.

18. It is to be pointed out that certain heads of claim, which are given under the Motor Vehicles Act are not available under the Workmen's Compensation Act. However, insofar as loss of earnings, it is available under both the enactments. Therefore, to the extent of the claim paid under the Workmen's Compensation Act, necessary deductions ought to be made before the Tribunal can adjudicate and pass award in favour of the claimant.

19. In the case on hand, the Tribunal, before granting any compensation to the victim/injured under the Motor Vehicles Act, in respect of the claims, which are the subject matter of the present appeals, the compensation granted under the Workmen's Compensation Act in respect of the heads under which compensation have been paid, ought to have been taken into consideration and



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necessary deduction of the compensation under the said heads ought to have been made while computing the compensation payable under the Motor Vehicles Act as double compensation under the same head cannot be granted to the claimants, merely because the claimants can seek redressal of their grievance under two different enactments. However, the Tribunal, without advertng to such a procedure and without reference to Section 167 of the Motor Vehicles Act, had granted compensation to the victim/injured, who are the respondents herein, by making necessary deductions. In such a scenario, the contention as submitted on behalf of the appellant/insurance company does not only have the backing of law, but also is on sane logic and, therefore, the said contention deserves to be accepted.

20. For the reasons aforesaid, all the appeals are allowed and the impugned awards are set aside and the matter is remanded back to the Tribunal to compute the compensation payable to the respondents herein under the Motor Vehicles Act afresh by deducting the compensation already paid under the Workmen's Compensation Act. The said exercise shall be taken up and



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completed by the Tribunal by passing the awards within a period of twelve weeks from the date of receipt of a copy of this order. There shall be no order as to costs in these appeals.

**16.10.2023**

Index : Yes / No  
Speaking Order / Non-speaking morder  
Neutral Citation Case : Yes / No

NHS/GLN



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To

1. Motor Accident Claims Tribunal,  
District Court, Thiruvannamalai.
- 2.The Section Officer,  
V.R. Section,  
High Court, Madras.



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**M.DHANDAPANI, J**

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