



CRP.Nos.955, 959, 2295 & 2298 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 10.07.2025

Order pronounced on : 18.07.2025

CORAM

THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.Nos.955, 959, 2295 & 2298 of 2025
& CMP.Nos.5520 & 5523 of 2025

Geetha
Japamalairaj

..Petitioner in CRP.Nos.955 & 2298 of 2025
..Petitioner in CRP.Nos.959 & 2295 of 2025

Vs.

1.Sri Ganesha Readymix,
Concrete, Rep by its Partner,
SF.No.176/A, Manalkadu Thottam,
Kodangipalayam, Karanampettai,
Palladam – 641 401.

2.The Branch Manager,
The New India Assurance Company Limited,
P.B.No.4, Kumaran Shopping Complex,
Kumaran Road, Tiruppur – 641 601

...Respondents 1 & 2 in all CRPs

3.Karupaiah
4.Saraswathi

5.The Branch Manager,
The National Insurance Company Limited,
Karur Branch, No.63, RSI Plaza,
West Pradhakshinam Road,
Karur.

...Respondents 3 to 5 in
CRP.Nos.2295 & 2298 of 2025



Prayer in CRP.No.955 of 2025: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 24.10.2024 passed in I.A.No.04 of 2024 in MCOP.No.1687 of 2019 on the file of the Exclusive Motor Accident Claims Tribunal, Tiruppur.

Prayer in CRP.No.959 of 2025: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 24.10.2024 passed in I.A.No.01 of 2024 in MCOP.No.1993 of 2019 on the file of the Exclusive Motor Accident Claims Tribunal, Tiruppur.

Prayer in CRP.No.2295 of 2025: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 09.01.2025 passed in I.A.No.03 of 2025 in MCOP.No.1993 of 2019 on the file of the Exclusive Motor Accident Claims Tribunal, Tiruppur.

Prayer in CRP.No.2298 of 2025: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 09.01.2025 passed in I.A.No.05 of 2025 in MCOP.No.1687 of 2019 on the file of the Exclusive Motor Accident Claims Tribunal, Tiruppur.

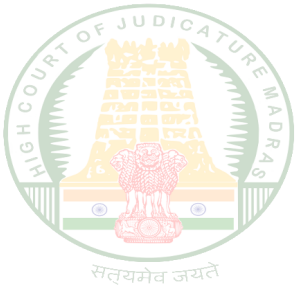
For Petitioner : Mr.Ma.P.Thangavel in all CRPs

For Respondents : Mr.S.P.Chockalingam for R2 in all CRPs

Mrs.N.B.Surekha for R5 in CRP.No.2295 & 2298 of 2025

No appearance for R3 in CRP.No.2295 of 2025

RR1 & 4 Not ready in notice in CRP.No.2295 of 2025



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CRP.Nos.955, 959, 2295 & 2298 of 2025

No appearance for RR1 & 3 in CRP.No.2298 of 2025

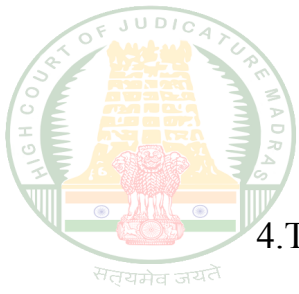
R4 Not ready in notice in CRP.No.2298 of 2025

COMMON ORDER

These revisions are at the instance of the claimants, who have approached the Motor Accident Claims Tribunal, Tiruppur, seeking compensation for the injuries sustained by them in a motor accident.

2.The claimants, who are revision petitioners herein, had taken out applications to amend the claim petitions and also to implead the owner of another vehicle and the insurer, with whom the said vehicle had been insured. All the applications came to be dismissed by the Tribunal, as against which, the present revisions have been preferred.

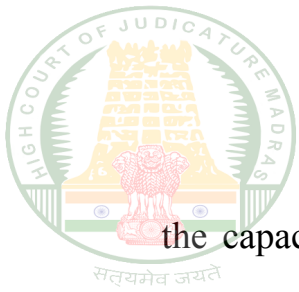
3.I have heard Mr.Ma.P.Thangavel, learned counsel for the petitioner in all the revisions, Mr.S.P.Chockalingam, learned counsel for the 2nd respondent in all the revisions and Mrs.N.B.Surekha, learned counsel for the 5th respondent in CRP.Nos.2295 & 2298 of 2025.



4.The case of the claimants/revision petitioners is that they had filed the claim petitions as against the offending lorry and the Insurance Company with whom the said lorry had been insured. However, subsequently, the petitioners have been advised to seek amendment of the claim petitions and also implead the owners as well as the insurer of the Eicher vehicle, which was also involved in the accident.

5.Mr.Ma.P.Thangavel, learned counsel for the petitioner in all the revisions would refer to the First Information Report, which was only at the instance of the claimants and state that there is a specific mention about the role of the Eicher vehicle in the accident and he would point out that FIR clearly records the statement of the claimants that it was only the Eicher vehicle that came and dashed against the claimants. He would therefore state that in order to avoid any technical objections that may be put against the claimants, the amendments as well as impleading applications ought to have been allowed. He would therefore pray for the revisions being allowed.

6.Per contra, Mr.S.P.Chockalingam, learned counsel for the 2nd respondent in the revisions would state that in the claim petition, the version projected is only that the lorry was at fault and therefore, the 2nd respondent in

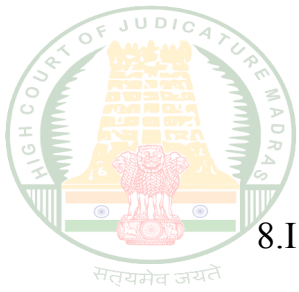


the capacity of being the insurer of the lorry has been impleaded. He would

further state that the 2nd respondent is willing to abide by any orders of this

Court with regard to the amendment and the impleading applications.

7.However, Mrs.N.B.Surekha, learned counsel for the 5th respondent, namely the insurer of Eicher vehicle would contend that in the claim petition as well as in the proof affidavit, there is no reference to the role of the Eicher vehicle and therefore, the claimants cannot introduce a new case by way of amendment. She would further contend that the 5th respondent is totally an unnecessary party and the Tribunal has rightly dismissed the applications. She would also place reliance on the judgment of the Hon'ble Supreme Court in *Khenyei Vs. New India Assurance Co.Ltd., and Others*, passed in *Civil Appeal No.4244 of 2015* dated 07.05.2015, where the Hon'ble Supreme Court has held that even when there is a case of composite negligence, there was an option to the claimant to recover damages at his option from any of the two tort-feasors. She would therefore state that there is absolutely no prejudice caused to the claimants and in view of the dictum of the Hon'ble Supreme Court in *Khenyei's case*, even assuming it is a case of composite negligence, the 5th respondent is not a necessary party.

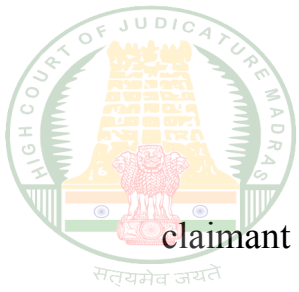


8.I have carefully considered the submissions advanced by the learned counsel on either side.

9.No doubt, in the claim petition as well as the proof affidavit, there is no whisper about the role of the Eicher vehicle in the accident. Even in the FIR, which was registered only at the instance of one of the claimants (husband) though there is a mention about the Eicher vehicle, the complaint is only against the lorry driver. Referring to these aspects, the learned counsel for the 5th respondent would contend that by seeking an amendment to rope in the owner of the Eicher vehicle and the insurer, the claimants are giving a total go by to their original version which cannot be permitted.

10.It is also the contention of the learned counsel for the 5th respondent that in view of the dictum of the Hon'ble Supreme Court in *Khenyei's case*, it is not even necessary for the claimants to proceed against all the tort-feasors and it would be at his discretion to proceed against one of them and to recover the entire compensation.

11.No doubt, the Hon'ble Supreme Court in *Khenyei's case*, has held that when the injury is caused as a result of negligence of two tort-feasors, the



claimant can opt to proceed against even one of them and seek to recover the

entire compensation. This is on the principle that liability of joint tort-feasors is joint and several. However, even though the claimants have not mentioned about the role of the Eicher vehicle in their claim petition as well as in the proof affidavit, which is only adopted based on the original claim, on going through the FIR, I find that there is clear reference to the fact that the Eicher vehicle alone came and dashed against the claimants, resulting in the injuries.

12.It is one thing to say that compensation can be sought for from one of the joint tort-feasors and it is not necessary to seek compensation from all the joint tort-feasors, however, it is different when it comes to fixing the liability for payment of compensation. In the event of the claimants being unable to establish at trial that the lorry owner was at fault and it comes out in evidence that it is only the Eicher vehicle which has been responsible for the injuries sustained by the claimants, then there is possibility of the claimants being non suited on this ground. Therefore, when the claimants desire, by way of abundant caution to implead the owner and insurer of the Eicher vehicle, the Tribunal should have taken a liberal view and permitted the amendment and also impleading of the parties as prayed for by the claimants.



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13.The Motor Vehicles Act is a beneficial legislature intended to offer adequate and fair compensation to the victims of motor accidents.

14.In the light of the above laudable objection with which the enactment has been brought about, technical considerations should not come in the way of doing substantial justice to the parties. Moreover, by merely permitting amendment of the claim petition and impleading of the owners of another vehicle and its insurer admittedly involved in the accident as well, it does not in any way prejudice the interest of the proposed parties.

15.It is trite law that mere amendment of pleadings and impleadment of parties would not automatically result in acceptance of the amendments sought for or the liability of the parties being fixed. The claimants will have to establish the role and liability of the newly added parties and equally, the newly added parties would also have adequate opportunity to file counter and also cross-examine all the witnesses, to establish that the Eicher vehicle was not at fault and consequently, the newly impleaded respondents cannot be held liable to compensate the claimants. In such view of the matter, I am inclined to interfere with the order of the Tribunal, dismissing the amendment applications as well as the impleading applications in both the claim petitions.



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16. In view of the above, the Civil Revision Petitions are allowed and the order dated 24.10.2024 in I.A.Nos.4 and 1 of 2024 in MCOP.Nos.1687 & 1993 of 2019 respectively and the order dated 09.01.2025 in I.A.Nos.3 & 5 of 2025 in MCOP.Nos.1993 & 1678 of 2019 respectively on the file of the Exclusive Motor Accident Claims Tribunal, Tiruppur, are set aside. In view of the fact that MCOPs are pending from 2019, the Exclusive Motor Accident Claims Tribunal, Tiruppur, shall ensure completion of pleadings, post amendment being ordered, within a period of six weeks from the date of receipt of a copy of this order and thereafter, expedite the trial in the claim petitions and dispose of the same on merits and in accordance with law, without being influenced by any of the observations that may have been made herein above, within a period of six months from the date of receipt of a copy of this order. There shall be no order as to costs. Connected Civil Miscellaneous Petitions are closed.

18.07.2025

Speaking/Non-speaking order

Index : Yes/No

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To

The Exclusive Motor Accident Claims Tribunal, Tiruppur.



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CRP.Nos.955, 959, 2295 & 2298 of 2025

P.B.BALAJI.J.

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Pre-delivery order made in
CRP.Nos.955, 959, 2295 & 2298 of 2025
& CMP.Nos.5520 & 5523 of 2025

18.07.2025