



C.M.A.Nos.1981,1983,1985,1987,1988,1990 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2025

CORAM:

THE HONOURABLE Mrs. JUSTICE R. KALAIMATHI

**C.M.A.Nos.1981, 1983 and 1985, 1987, 1988 and 1990 of 2022**  
**and**

**C.M.P.Nos.15085, 15095, 15097, 15109, 15110 and 15173 of 2022**

**C.M.A.No.1981 of 2022**

M/s.New India Assurance Company Limited,(Erode),  
T.P.HUB having office at No.133/31A,  
Sethu Krishna Trade Centre,  
2<sup>nd</sup> Floor, Trichy Main Road,  
(Near Raja Sabari Theatre), Gugai,  
Salem- 636 006.

... Appellant

vs.

1. Raju

2. K.M.Gopalakrishnan

3. S.Ramanisanker

4. M/s.National Insurance Co. Ltd.,  
D.II, 2<sup>nd</sup> Floor, Balaji Towers,  
No.11A, Ramakrishna Road, Salem,  
Amended as per Order in  
I.A.2671-A, dated 07.12.2021.

... Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Order dated 01.11.2021 made in M.C.O.P.No.1196 of 2018 on the file of the Motor Accident Claims Tribunal

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C.M.A.Nos.1981,1983,1985,1987,1988,1990 of 2022

/ Special District Judge, Salem.

For Appellant : Mr.K.Vinod  
For Respondents 1 to 3 : No Appearance  
For 4<sup>th</sup> Respondent : Ms.N.B.Sureka

**C.M.A.No.1983 of 2022**

M/s.New India Assurance Company Limited,(Erode),  
T.P.HUB having office at No.133/31A,  
Sethu Krishna Trade Centre,  
2<sup>nd</sup> Floor, Trichy Main Road,  
(Near Raja Sabari Theatre), Gugai,  
Salem- 636 006.

... Appellant

vs.

1. Angamadevi

2. Vijayakumar

3. K.M.Gopalakrishnan

4. S.Ramanisanker

5. M/s.National Insurance Co. Ltd.,  
D.II, 2<sup>nd</sup> Floor, Balaji Towers,  
No.11A, Ramakrishna Road, Salem,  
Amended as per Order in  
I.A.2671-A, dated 07.12.2021.

... Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Order dated 01.11.2021 made in M.C.O.P.No.1180 of 2018 on the file of the Motor Accident Claims Tribunal / Special District Judge, Salem.

For Appellant : Mr.K.Vinod



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For Respondents 1 to 4 : No Appearance

For 5<sup>th</sup> Respondent : Ms.N.B.Sureka

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**C.M.A.No.1985 of 2022**

M/s.New India Assurance Company Limited,(Erode),  
T.P.HUB having office at No.133/31A,  
Sethu Krishna Trade Centre,  
2<sup>nd</sup> Floor, Trichy Main Road,  
(Near Raja Sabari Theatre), Gugai,  
Salem- 636 006.

... Appellant

vs.

1. Sivakami

2. K.M.Gopalakrishnan

3. S.Ramanisanker

4. M/s.National Insurance Co. Ltd.,  
D.II, 2<sup>nd</sup> Floor, Balaji Towers,  
No.11A, Ramakrishna Road, Salem,  
Amended as per Order in  
I.A.2671-A, dated 07.12.2021.

... Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Order dated 01.11.2021 made in M.C.O.P.No.1181 of 2018 on the file of the Motor Accident Claims Tribunal / Special District Judge, Salem.

For Appellant : Mr.K.Vinod

For Respondents 1 to 3 : No Appearance

For 4<sup>th</sup> Respondent : Ms.N.B.Sureka



C.M.A.Nos.1981,1983,1985,1987,1988,1990 of 2022

**C.M.A.No.1987 of 2022**

M/s.New India Assurance Company Limited,(Erode),  
T.P.HUB having office at No.133/31A,  
Sethu Krishna Trade Centre,  
2<sup>nd</sup> Floor, Trichy Main Road,  
(Near Raja Sabari Theatre), Gugai,  
Salem-636 006.

... Appellant

vs.

1. Kalaimani

2. K.M.Gopalakrishnan

... Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Order dated 01.11.2021 made in M.C.O.P.No.748 of 2018 on the file of the Motor Accident Claims Tribunal / Special District Judge, Salem.

For Appellant : Mr.K.Vinod

For Respondents 1and 2 : No Appearance

**C.M.A.No.1988 of 2022**

M/s.New India Assurance Company Limited,(Erode),  
T.P.HUB having office at No.133/31A,  
Sethu Krishna Trade Centre,  
2<sup>nd</sup> Floor, Trichy Main Road,  
(Near Raja Sabari Theatre), Gugai,  
Salem- 636 006.

... Appellant

vs.

1. Sivakami

2. Saraswathi

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C.M.A.Nos.1981,1983,1985,1987,1988,1990 of 2022

3. Viajayakumar

4. Savithri

5. Devaprakash

6. K.M.Gopalakrishnan

7. S.Ramanisankar

8. M/s.National Insurance Co. Ltd.,  
D.II, 2<sup>nd</sup> Floor, Balaji Towers,  
No.11A, Ramakrishna Road, Salem,  
Amended as per Order in  
I.A.2671-A, dated 07.12.2021.

... Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Order dated 01.11.2021 made in M.C.O.P.No.1265 of 2018 on the file of the Motor Accident Claims Tribunal / Special District Judge, Salem.

For Appellant : Mr.K.Vinod

For Respondents 1 to 7 : No Appearance

For 8<sup>th</sup> Respondent : Ms.N.B.Sureka

**C.M.A.No.1990 of 2022**

M/s.New India Assurance Company Limited,(Erode),  
T.P.HUB having office at No.133/31A,  
Sethu Krishna Trade Centre,  
2<sup>nd</sup> Floor, Trichy Main Road,  
(Near Raja Sabari Theatre), Gugai,  
Salem- 636 006.

... Appellant

vs.

1. Saraswathi

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C.M.A.Nos.1981,1983,1985,1987,1988,1990 of 2022

2. K.M.Gopalakrishnan

3. S.Ramanisanker

4. M/s.National Insurance Co. Ltd.,  
D.II, 2<sup>nd</sup> Floor, Balaji Towers,  
No.11A, Ramakrishna Road, Salem,  
Amended as per Order in  
I.A.2671-A, dated 07.12.2021.

... Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Order dated 01.11.2021 made in M.C.O.P.No.1183 of 2018 on the file of the Motor Accident Claims Tribunal / Special District Judge, Salem.

For Appellant : Mr.K.Vinod  
For Respondents 1 to 3 : No Appearance  
For 4<sup>th</sup> Respondent : Ms.N.B.Sureka

### **COMMON JUDGMENT**

These Civil Miscellaneous Appeals have been preferred by the 2<sup>nd</sup> respondent/Insurance Company which is the insurer of Eicher Van bearing Reg.No.TN-30-BV-6397 against the Award dated 01.11.2021 made in M.C.O.P.Nos.1196,1180, 1181,748, 1265 and 1183 of 2018 on the file of the Motor Accident Claims Tribunal / Special District Court (to deal with the MCOP Cases), Salem as regards the liability issue.

2. Parties are indicated herein as per their litigative status and ranking before the Tribunal.

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3. Case of the claimants is stated in brief:

On 30.03.2018, at about 3 a.m., while the claimant in M.C.O.P.No.748 of 2018 was driving Omni Van bearing Reg.No.TN-30-BV-6397 along with passengers from Salem to Palani, along Salem-Sankari main road at Kaalipatty Bridge, took 'U' turn on the eastern side of the Bridge with care and caution, a lorry bearing Reg.No.TN-30-AW-3516 which was stationed in the no parking area in the National Highway road without proper signal and caution. The driver/claimant hit his Omni Van behind the lorry and the accident occurred. Due to the said impact, the driver of the Omni Van sustained grievous injuries all over the body. One passenger died and other passengers of Omni Van sustained injuries. Claimant was taken to Vinayaka Mission Hospital, Salem. The accident took place due to the negligence of standing lorry in the no parking area without any proper signal and the owner and insurer of the said Eicher lorry are responsible to pay compensation to the legal representatives of the deceased and injured claimants.

4. On behalf of the 2<sup>nd</sup> respondent / Insurance Company, it is contended that the lorry was left near the Kaalipatty Bridge by following



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the traffic rules. Only the driver of the Omni Van drove his vehicle in a rash and negligent manner in a sleepy mood hit behind the lorry. Therefore, the driver of Omni Van has also contributed to the accident and he is not entitled for compensation. Both the drivers of the vehicles had no driving license at the time of accident. More number of persons than the seating capacity travelled in the Van and therefore, the 2<sup>nd</sup> respondent is not liable to pay compensation.

5. On behalf of the insurer of Omni Van, namely 4<sup>th</sup> respondent, it has been stated that the driver of the Van drove his vehicle with utmost care and caution. The driver of the Van was unable to observe the lorry parked in the dark area in the middle of the road and hit behind the lorry. Therefore, as the lorry was parked in the middle of the road without any signal the accident occurred due to the negligence of the driver of the lorry. Therefore, 4<sup>th</sup> respondent is not liable to pay compensation.

6. Eight M.C.O.Ps., were filed and common evidence was recorded in M.C.O.P.No.748 of 2018 and M.C.O.P.No.1265 of 2018 and Common Order was passed on 01.11.2021 by the Special District Court (to deal with M.C.O.P., cases), Salem.



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7. The Tribunal upon consideration of oral and documentary evidence saddled the entire responsibility upon the insurer of Eicher Lorry, 2<sup>nd</sup> respondent herein. This findings given against the 2<sup>nd</sup> respondent / Insurance Company is now sought to be challenged.

8. At trial, on the claimant's side, five witnesses have been examined and forty-three documents have been marked. On the respondent's side, driver of the Omni Van, Kalaimani was examined as RW1 and two witnesses have been examined and three documents have been marked. Exs.C1 to C3 are the Disability Certificates of Raju, Angama Devi and Vijayakumar (Claimants). PW1 to PW5 in unison would state that at the relevant point of time, when they were travelling in the Omni Van, the Omni Van while taking U turn hit behind the lorry which was stationed in the middle of the road without any blinkers and due to the negligent stationing of lorry by its driver, accident happened. PW1 alone has been extensively cross-examined by the insurer of Omni Van and Eicher lorry. During the cross examination of PW1, he would state that accident occurred in the middle portion of the road. No answer advantageous to the 1<sup>st</sup> and 2<sup>nd</sup> respondents (owner and insurer of Eicher lorry) was elicited through PW1.

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9. Driver of the Omni Van though is a claimant in M.C.O.P.No.748 of 2018, he was examined as RW1 by the 4<sup>th</sup> respondent-insurer of Omni Van. It is the evidence of RW1 that when he turned towards Kaalipatty diversion road on the left hand side, lorry was stationed in the middle of the road without any blinkers and when he was turning his vehicle, it hit upon the lorry from behind and his left front side of the Van hit on the right rear side of lorry. RW1 would also state that “என் கார் டையரில் பஞ்சர் ஆனபோதுதான் விபத்து ஏற்பட்டது என்றால் சரிதான்.”

10. On the 2<sup>nd</sup> respondent's side, no ocular witness was examined. On a careful perusal of the testimony of PW1 and RW1, it is pellucid that, had the blinkers on the Eicher lorry had been lit, stationing of lorry might have been noticed by RW1 (driver of Omni Van) and accident would have been averted.

11. As per Sections 122, 126, and 201 of Motor Vehicles Act and Rule 15 of Road Regulations, 1989, leaving a vehicle in a public place in the way (i.e.), likely to cause obstruction or inconvenience to the road users is prohibited. As per Regulation 28 of Motor Vehicles regulations 2017, what are the precautions to be taken by the driver is given  
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hereunder:

**Vehicles Breakdown (Regulation 28):** In case a vehicle with more than two wheels has broken down at a place where it can be recognised in time as a stationary obstacle.

- i) The hazard warning lights of the vehicle shall be switched on immediately;*
- ii) On highways and major roads with fast speed, reflective traffic warning triangles shall be placed at a distance of fifty meters behind the broken-down vehicles.*
- iii) If there is a bend on the road where the vehicle is parked, reflective traffic warning triangles shall be placed before the bend.*

12. As per Ex.P22, Motor Vehicles Inspector Report in respect of Eicher lorry in column No.12 damage sustained by the vehicle due to the accident is mentioned as follows:

*“Rear right body dented and Rear right brake light Assembly broken, Rear right wheel mudguard (rear side) dented”.*



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13. As per Ex.P23 – Motor Vehicle Inspector Report of Omni Van, as per Column No.12 - details regarding damage sustained by the vehicle due to the accident, the following details are mentioned in Ex.P23.

*“Front wind screen glass broken, driver dash board damaged, Front bumper. Front body, Wiper set, Front left Head light, Indicator damaged, front left hand RA mirror broken, Front and Rear both side door glasses broken, Front both seats and centre and sweat assembly damaged both side Front and rear doors totally damaged, Steering column, linkages damaged, Front, right, left, rear and T roof body and structure dented, bent & damaged, Left side running board dented.”*

14. In such circumstances, the contention of the appellant / 2<sup>nd</sup> respondent Insurance Company that driver of the Omni Van has also contributed to the accident is not acceptable in the absence of testimony of any ocular witness on the side of the 2<sup>nd</sup> respondent/Insurance Company.



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15. Based upon the testimony of the above said witnesses coupled with Exs.P22 and P23, the Tribunal has fastened the entire liability upon the insurer of Eicher lorry cannot be found fault with. This Court does not find any good reason to upset the findings of the Tribunal. This Court also does not find any perversity or infirmity in the findings of the Tribunal.

16. In the result,

**(1) C.M.A.No.1981 of 2022 (M.C.O.P.No.1196 of 2018):**

(i) The Civil Miscellaneous Appeal stands dismissed. No costs.

(ii) The compensation awarded by the Tribunal is confirmed.

(iii) The appellant / Insurance Company is directed to deposit the compensation awarded by the Tribunal i.e., **Rs.1,10,000/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, **(excluding the period of default, if any)** to the credit of M.C.O.P.No.1196 of 2018 on the file before the Motor Accident Claims Tribunal, Special District Judge, Salem, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimant is at liberty to withdraw the award amount along with interest and costs, after adjusting

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the amount, if any already withdrawn, by filing cheque application before the Tribunal. The claimant is directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant. Consequently, connected miscellaneous petition is closed.

**(2) C.M.A.No.1983 of 2022 (M.C.O.P.No.1180 of 2018):**

(i) The Civil Miscellaneous Appeal stands dismissed. No costs.

(ii) The compensation awarded by the Tribunal is confirmed.

(iii) The appellant / Insurance Company is directed to deposit the compensation awarded by the Tribunal i.e., **Rs.4,00,000/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, **(excluding the period of default, if any)** to the credit of M.C.O.P.No.1180 of 2018 on the file before the Motor Accident Claims Tribunal, Special District Judge, Salem, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimants are at liberty to withdraw the award amount equally along with interest and costs, after adjusting the amount, if any already withdrawn, by filing cheque application before the Tribunal. The claimants are directed to pay the



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Court fee for the compensation amount, if required. The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimants. Consequently, connected miscellaneous petition is closed.

**(3) C.M.A.No.1985 of 2022 (M.C.O.P.No.1181 of 2018):**

(i) The Civil Miscellaneous Appeal stands dismissed. No costs.

(ii) The compensation awarded by the Tribunal is confirmed.

(iii) The appellant / Insurance Company is directed to deposit the compensation awarded by the Tribunal i.e., **Rs.50,000/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, **(excluding the period of default, if any)** to the credit of M.C.O.P.No.1181 of 2018 on the file before the Motor Accident Claims Tribunal, Special District Judge, Salem, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimant is at liberty to withdraw the award amount along with interest and costs, after adjusting the amount, if any already withdrawn, by filing cheque application before the Tribunal. The claimant is directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of



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Court fee by the claimant. Consequently, connected miscellaneous petition is closed.

**(4) C.M.A.No.1987 of 2022 (M.C.O.P.No.748 of 2018):**

(i) The Civil Miscellaneous Appeal stands dismissed. No costs.

(ii) The compensation awarded by the Tribunal is confirmed.

(iii) The appellant / Insurance Company is directed to deposit the compensation awarded by the Tribunal i.e., **Rs.40,000/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, **(excluding the period of default, if any)** to the credit of M.C.O.P.No.748 of 2018 on the file before the Motor Accident Claims Tribunal, Special District Judge, Salem, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimant is at liberty to withdraw the award amount along with interest and costs, after adjusting the amount, if any already withdrawn, by filing cheque application before the Tribunal. The claimant is directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant. Consequently, connected miscellaneous petition is closed.



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**(5) C.M.A.No.1988 of 2022 (M.C.O.P.No.1265 of 2018):**

(i) The Civil Miscellaneous Appeal stands dismissed. No costs.

(ii) The compensation awarded by the Tribunal is confirmed.

(iii) The appellant / Insurance Company is directed to deposit the compensation awarded by the Tribunal i.e., **Rs.6,85,000/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, **(excluding the period of default, if any)** to the credit of M.C.O.P.No.1265 of 2018 on the file before the Motor Accident Claims Tribunal, Special District Judge, Salem, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimants are at liberty to withdraw the award amount equally along with interest and costs, after adjusting the amount, if any already withdrawn, by filing cheque application before the Tribunal. The claimants are directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimants. Consequently, connected miscellaneous petition is closed.



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**(6) C.M.A.No.1990 of 2022 (M.C.O.P.No.1183 of 2018):**

(i) The Civil Miscellaneous Appeal stands dismissed. No costs.

(ii) The compensation awarded by the Tribunal is confirmed.

(iii) The appellant / Insurance Company is directed to deposit the compensation awarded by the Tribunal i.e., **Rs.90,000/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, **(excluding the period of default, if any)** to the credit of M.C.O.P.No.1183 of 2018 on the file before the Motor Accident Claims Tribunal, Special District Judge, Salem, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimant is at liberty to withdraw the award amount along with interest and costs, after adjusting the amount, if any already withdrawn, by filing cheque application before the Tribunal. The claimant is directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant. Consequently, connected miscellaneous petition is closed.

28.11.2025

Index : Yes/No

Speaking / Non-speaking order

ssn

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To:

1. The Motor Accident Claims Tribunal,  
Special District Judge, Salem.
2. The Section Officer,  
V.R.Section,  
High Court of Madras,  
Chennai.



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**R.KALAIMATHI, J.,**

ssn

**C.M.A.Nos.1981, 1983 and 1985, 1987, 1988 and 1990 of 2022**  
**and**  
**C.M.P.Nos.15085, 15095, 15097, 15109, 15110 and 15173 of 2022**

**28.11.2025**