



CMA NOS.685 OF 2023 AND 109 OF 2025

**IN THE HIGH COURT OF JUDICATURE AT MADRAS
JUDGMENT RESERVED ON : 10 / 01 / 2025**

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JUDGMENT DELIVERED ON : 08 / 04 / 2025

CORAM:

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL**

CMA NOS.685 OF 2023 AND 109 OF 2025

AND

CMP NO.29142 OF 2024 IN CMA NO.685 OF 2023

AND

CMP NOS.933 OF 2025 IN CMA NO.109 OF 2025

CMA NO.685 OF 2023

Selvam (Died)

S/o. Ranganathan

Door No.27, 5th Circular Road,
Jawahar Nagar, Chennai – 600082.

... Claimant

1.R.Pattu, W/o. Ranganathan

... 1st Appellant

2.S.Radha, W/o. Selvam

... 2nd Appellant

3.S.Bhuvaneshwari (Minor), D/o. Selvam,
Rep. by Mother and Next Friend - Mrs.S.Radha

... 3rd Appellant

4.S.Logesh (Minor), S/o. Selvam,
Rep. by Mother and Next Friend - Mrs.S.Radha

... 4th Appellant



CMA NOS.685 OF 2023 AND 109 OF 2025

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Vs.

The Managing Director
TNSTC Ltd., (Villupuram Division)
Kanchipuram Region – 631 502.

... Respondent / Respondent

PRAYER IN CMA.NO.685 OF 2023 : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to enhance the compensation awarded in Award dated October 29, 2021 made in M.C.O.P.No.6427 of 2017 on the file of the Motor Accidents Claims Tribunal (In the Court of the Principal Special Judge, Special Court under EC & NDPS Act), Chennai – 600 104.

For Appellants : Mr.T.K.Premkumar

For Respondent : Mr.A.Vinoth Raj

CMA NO.109 OF 2025

The Managing Director
TNSTC Ltd., (Villupuram Division)
Kanchipuram Region – 631 502.

... Appellant /
Respondent

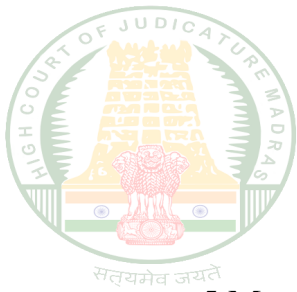
Vs.

Selvam (Died)
S/o. Ranganathan
Door No.27, 5th Circular Road,
Jawahar Nagar, Chennai – 600082.

2.R.Pattu, W/o. Ranganathan

3.S.Radha, W/o. Selvam

4.S.Bhuvaneshwari (Minor), D/o. Selvam,
Rep. by Mother and Next Friend - Mrs.S.Radha



CMA NOS.685 OF 2023 AND 109 OF 2025

5. Master S.Logesh (Minor), S/o. Selvam,
Rep. by Mother and Next Friend - Mrs.S.Radha

... Respondents

Note: Sole respondent viz., Selvam passed away. Respondents 2 to 5 are brought on record as legal representatives of the deceased sole respondent vide this Court's Order dated November 13, 2024 made in CMP Nos.19170 to 19172 of 2024 in CMA SR.Nos.112714 of 2023 and CMA No.685 of 2023.

PRAYER IN CMA.NO.109 OF 2025: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying to set aside the Award dated October 29, 2021 made in M.C.O.P.No.6427 of 2017 on the file of the Motor Accidents Claims Tribunal (Principal Special Judge, Special Court under EC & NDPS Act), Chennai – 600 104.

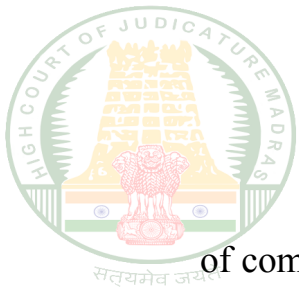
For Appellant : Mr.A.Vinoth Raj

For Respondents : Mr.T.K.Premkumar

COMMON JUDGMENT

R.SAKTHIVEL, J.

Feeling aggrieved by the Award dated October 29, 2021 passed by the 'Motor Accidents Claims Tribunal / Principal Special Judge, Special Court under EC & NDPS Act, Chennai – 600 104' ('Tribunal' for short) in M.C.O.P.No.6427 of 2017, the legal representatives of the petitioner therein have preferred CMA.No.685 of 2023 for enhancement



CMA NOS.685 OF 2023 AND 109 OF 2025

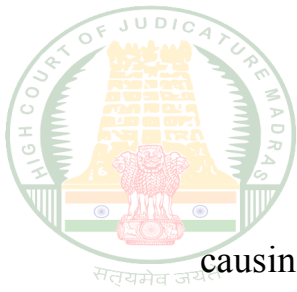
of compensation, while the respondent therein / Transport Corporation has preferred CMA No.109 of 2025 praying to set aside the Award. This Common Judgment will now govern both these Civil Miscellaneous Appeals.

2. The petitioner in the claim petition passed away on April 20, 2022 and his legal representatives were brought on record vide this Court's Order dated November 13, 2024 made in CMP Nos.19170 to 19172 of 2024 in CMA SR.No.112714 of 2023 and CMA No.685 of 2023.

3. For the sake of convenience, the parties herein will be referred to as per their rank in the Motor Claim original Petition.

PETITIONER'S CASE

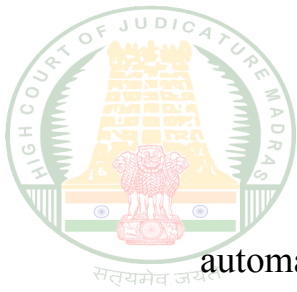
4. On June 29, 2017 at about 19.30 hours, while the petitioner was sitting on a small bridge near his residence in Sathanancherry Village, driver of the respondent's bus bearing Registration No.TN-21-N-1335 driving the bus in a rash and negligent manner at high speed, lost control of the bus while turning on a curve,



causing the bus to crash into the bridge. In the accident, the Bus ran over the petitioner's legs, leading to amputation of his right leg above knee. At the time of accident, the petitioner was a 30 years old Lorry Driver, earning a sum of Rs.20,000/- per month. The petitioner claims that the driver of the Bus was solely responsible for the accident and hence, the respondent / Transport Corporation is liable to pay compensation to the petitioner. Accordingly, the petitioner filed a claim petition claiming compensation of a sum of Rs.45,00,000/- from the respondent.

RESPONDENT'S CASE

5. The respondent denied the allegations stating that on June 29, 2017, the bus bearing Registration No.TN-21-N-1335 completed two trips without any issues. The petitioner claims that the accident occurred near Eswaran Koil, but if it had truly happened, the public would have stopped the bus and the police would have been immediately informed. However, First Information Report (FIR) was registered only after three days and the vehicle was sent for inspection after 14 days. The complainant of the FIR did not witness the accident and the FIR itself does not conclusively establish negligence by the bus driver. Citing previous judgments, the respondent contended that merely filing an FIR does not



automatically fix liability. The petitioner must provide strict proof, including witness testimony. The respondent also contended that the compensation claimed is excessive and that interest should be fixed as per Bank rates, as per the Judgment of the Hon'ble Supreme Court in *Tamil Nadu Transport Corporation, Kumbakonam -vs- Rajapriya and another* in *M.C.A.No.2765 of 2005*. Stating so, the respondent sought to dismiss the claim petition.

TRIBUNAL

6. Before the Tribunal, the petitioner was examined as P.W.1 and Ex-P.1 to Ex-P.16 were marked on the side of the petitioner. On the side of the respondent, A.Joseph, Driver of the Bus was examined as R.W.1 and no document was marked.

7. The Tribunal after hearing both sides and considering the evidence available on record, held that the accident had occurred due to the rash and negligent driving of the driver of the bus and directed the respondent to pay compensation to the petitioner. The break-up of the total compensation awarded by the Tribunal reads as hereunder:-



Sl. No.	Head	Amount
1	Pecuniary Loss	Rs.15,36,000.00
2	Pain and Sufferings	Rs.40,000.00
3	Extra Nourishment, Attendant charges and medical transportation	Rs.15,000.00
4	Medical Expenses	Rs.--
	Total Compensation	Rs.15,91,000.00

8. Not satisfied with the quantum of compensation awarded by the Tribunal, the legal representatives of the petitioner have filed CMA No.685 of 2023 since the petitioner passed away on April 20, 2022 i.e., after the Award was passed by the Tribunal.

9. Challenging the negligence and liability fastened on the respondent, the respondent / Transport Corporation has filed CMA No.109 of 2025.

ARGUMENTS

10. The learned Counsel for the appellants in CMA.No.685 of 2023 / legal representatives of the claimant argued that the Tribunal erred in awarding inadequate compensation and failed to follow settled legal principles. The deceased/claimant, a lorry driver, suffered 100% functional



disability due to the amputation of his right leg above knee, but the Tribunal wrongly relied on Ex-P.9, which assessed his disability at 80%. It also ignored serious injuries to his left leg, multiple surgeries and prolonged treatment. The Tribunal erred in calculating his monthly income at Rs.10,000/-, which is on the lower side; Rs.20,000/- would have been reasonable. Further, the Tribunal failed to add 40% future prospects, leading to a lower compensation. Instead of granting Rs.53,76,000/- for pecuniary loss, the Tribunal awarded Rs.15,36,000/- only under the head 'pecuniary loss'. The Tribunal also overlooked medical evidence, psychological trauma and financial hardships faced by the deceased/claimant. Therefore, the learned counsel for the appellants in CMA.No.685 of 2023 / legal representatives of the petitioner seeks enhancement of compensation by correcting the disability assessment and reassessing income.

10.1. He would further contend that, the claimant passed away after the Award and there is a clear nexus between the accident and his death, to substantiate which the documents sought to be marked vide the Order XLI Rule 27 Application are essential. Accordingly, he also



prayed to allow the said application, receive and mark the said documents.

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11. The learned Counsel for the respondent contended that the award and decree of the Tribunal are contrary to law, evidence and the probabilities of the case. The Tribunal erred in holding that the driver of the Bus was solely responsible for the accident, despite contradictions in the evidence. The driver's statement, along with the respondent's counter disclosed the fact that the Bus did not hit the claimant and that the vehicle completed its trips without any hindrance, which the Tribunal failed to consider. Furthermore, if the accident had truly occurred as claimed, public and passengers would have intervened, preventing the bus from continuing. The Tribunal also ignored the delay of three days in filing the FIR, which raises doubts about the credibility of the claim. Further, the compensation of Rs.15,36,000/- for pecuniary loss is excessive and lacks a proper basis. The Tribunal failed to follow the precedent set out in the judgment of this Court in *National Insurance Co. Ltd., -vs- P.Murugan*, reported in *2009 ACJ 2411*, which states that merely registering an FIR against a driver does not automatically establish fault. The learned counsel for the respondent, therefore, seeks a revision of the award, a proper



reassessment of liability based on available evidence and a reduction of the excessive compensation granted.

11.1. Further, the alleged accident occurred in the year 2017 and the claimant passed away after passing of the Award in the year 2022 and hence, there is no nexus between the alleged accident and his death. There are already sufficient evidence available on record and there is no need for any additional evidence. Hence the Order XLI Rule 27 Application is liable to be dismissed.

DISCUSSION

12. The Court has carefully examined the arguments presented by both, the appellants in CMA.No.685 of 2023 / legal representatives of claimant and the respondent / Transport corporation along with the evidence on record.

13. The appellants in CMA.No.685 of 2023 / legal representatives of claimant have moved an application under Order XLI Rule 27 of the Code of Civil Procedure, 1908 ['CPC' for short] in CMP No.29142 of 2024 in CMA No.685 of 2023 praying to receive the



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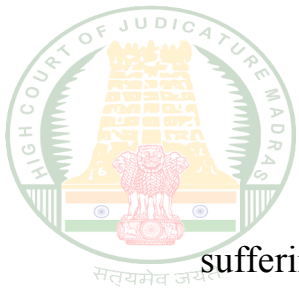
additional documentary evidence. This Court has perused the affidavit filed in support of the same. It is stated therein that, due to the accident, the deceased's right leg was amputated above knee and he was suffering from chronic Osteomyelitis (a bone infection condition), for which he was undergoing treatment till his demise. To establish a nexus between the accident and his death, the appellants in CMA.No.685 of 2023 want to mark the Civil Miscellaneous Petition mentioned documents including discharge summary and death certificate. This Court is of the *prima facie* view that the petition mentioned documents are necessary to decide these Civil Miscellaneous Appeals. Hence, this Court is inclined to allow the same. The nature of the petition mentioned documents are such that the respondent cannot deny them. Considering the nature of the documents, this Court is of the view that resort to the procedure under Order XLI Rule 28 of CPC is not necessary in this case. Accordingly, this Court hereby marks the said documents as Ex-P.17 to Ex-P.23.

14. In this case, the respondent examined one Selvam, driver of the bus, as R.W.1. He deposed that criminal case is still pending and no steps have been taken so far to quash the FIR and the chargesheet filed



against him. If really no such accident occurred as contended by the Transport Corporation, steps would have been taken to quash the FIR and the chargesheet. Further, although the FIR was registered after a delay of 3 days, the delay has been explained satisfactorily and hence the delay cannot be a weapon to reject the claim. The complainant / 2nd appellant in CMA.No.685 of 2023 has explained in the complaint itself that, immediately after the accident, the claimant was admitted in the Chengalpattu Government Hospital and thereafter, referred and admitted in Rajiv Gandhi General Hospital, Chennai on June 30, 2017, which is quite far away from their residence and that she had to be there with the claimant to take care of him and hence, the delay of 3 days in filing the FIR. In view Ex-P.1 – FIR, Ex-P.2 – Charge Sheet as well as the evidence of R.W.1, the Transport Corporation's argument that mere FIR does not conclusively prove negligence deserves to be rejected. There is no valid reason to interfere with the findings of the Tribunal in regard of negligence. Consequently, this Court is inclined to uphold the same.

15. Perusal of medical records in Ex-P.3 would show that, initially, the claimant's right leg was amputated above knee and he was



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suffering from chronic Osteomyelitis in his left leg. With amputation of one leg and serious complication in the other, he would not be able to lead a normal life, especially without others assistance. He would not be able to carry out his day-to-day activities on his own. Moreover, the medical records in Ex-P.17 would show that, subsequently, as a result of the sequelae of injuries sustained in claimant's left leg, the claimant passed away. Hence, this Court is of the view that there exist a nexus between the accident and the passing of the claimant. Accordingly, this Court deems this case a fit one for employing multiplier method. Considering the age of claimant at the time of accident (not his age at the time of his passing because the accident rendered him functionally disabled as stated *supra*), the appropriate multiplier to be applied is 16. Further, this Court grants Rs.16,500/- for funeral expenses, another Rs.16,500/- for loss of estate and Rs.44,000/- for each of the appellants in CMA.No.685 of 2023 / legal representatives (total Rs.1,76,000/-) towards loss of consortium.

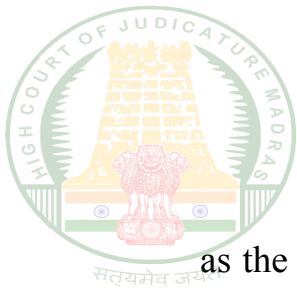
16. The Tribunal had fixed the notional income at Rs.10,000/- per month, which is on the lower side. Though the claimant failed to prove that he was working as a driver, considering the date of accident, cost of



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living prevailing at that time and family size of the claimant, this Court is of the view that the claimant would have earned not less than Rs.13,000/- per month. Bearing in mind ***Aandal's Case*** [*Andal -vs- Abhinav Kannan* reported in (2019) (1) TN MAC 5], this Court takes the notional income of the claimant at Rs.13,705/- per month. As per the Supreme Court's guidelines in ***National Insurance Co. Ltd. vs. Pranay Sethi*** reported in ***AIR 2017 SC 5157***, a 40% increase for future prospects is granted since the claimant was below 40 years and engaged in self-employment. Applying the ***Sarla Verma vs. Delhi Transport Corporation*** reported in ***(2009) 6 SCC 121*** formula, a multiplier of 16 is taken, with a 1/4th deduction for personal expenses.

17. The Tribunal has awarded Rs.40,000/- under the head of pain and sufferings, which appears to be on the lower side. Considering the fact that the claimant suffered amputation of right leg above knee and also got severely injured in his left leg, this Court deems fit to enhance the compensation under the head of pain and sufferings to Rs.2,00,000/-. Further, Ex-P.3 – Medical Records would show that the claimant underwent treatment as inpatient for 58 days. In view of the same as well

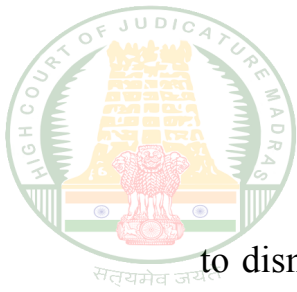


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as the amputation and severity of the injuries suffered, this Court is of the view that the claimant is entitled to Rs.1,00,000/- towards extra nourishment, attender charges and medical transportation. One may argue that the claimant passed away and hence his legal representatives are not entitled to compensation towards pain & sufferings and towards extra nourishment, attender charges and medical transportation. To be noted, the claimant suffered amputation of right leg above knee as well as chronic Osteomyelitis due to the accident and passed away about 5 years after the accident, during which time he would have endured severe pain and sufferings and required extra nourishment, an attender to assist and take care of him and medical transportation. Hence, though he passed away, his legal representatives are entitled to get compensation under the aforesaid heads.

18. As far as rate of interest is concerned, the Tribunal has awarded 7.5% Post Award Interest which seems to be reasonable.

19. In conclusion, this Court finds no merit in the Transport Corporation's appeal viz., CMA No.109 of 2025 and accordingly, inclined



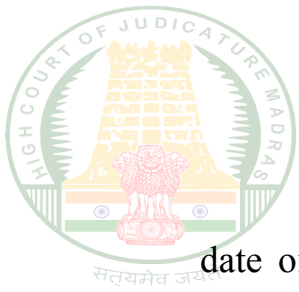
to dismiss the same. However, in so far as the claimant's appeal in CMA No.685 of 2023 for enhancement is concerned, this Court is inclined to allow the same by revising the compensation as under:

<i>S. No.</i>	<i>Head</i>	<i>Amount Awarded by the Tribunal</i>	<i>Amount now modified by this Court</i>	<i>Status</i>
1	Pecuniary Loss	Rs.15,36,000.00	Rs.27,62,928.00	Enhanced
2	Pain and Sufferings	Rs.40,000.00	Rs.2,00,000.00	Enhanced
3	Extra Nourishment, Attender charges and medical transportation	Rs.15,000.00	Rs.1,00,000.00	Enhanced
4	Funeral Expenses	--	Rs.16,500.00	Granted
5	Loss of Estate	--	Rs.16,500.00	Granted
6	Loss of Consortium (Rs.44,000/- X 4)	--	Rs.1,76,000.00	Granted
	Total Compensation	Rs.15,91,000.00	Rs.32,71,928.00	Enhanced

Note: Pecuniary Loss is calculated as tabulated hereunder:

Notional Income	Rs.13,705/-
Add: Future Prospects (40%)	(+) Rs.5482/-
Deduct: Personal Deduction (1/4)	(-) Rs.4797/-
Monthly income	Rs.14,390/-
Annual Income	Rs.1,72,683/-
Total Pecuniary Loss	Rs.27,62,928/-
[Multiplier (16) X Annual Income]	

20. Accordingly, the respondent / Transport Corporation is directed to deposit the enhanced award amount of **Rs.32,71,928/- (Rupees Thirty Two Lakh Seventy One Thousand Nine Hundred and Twenty Eight only)** along with interest at the rate of 7.5% per annum from the



date of claim petition till the date of deposit, to the credit of M.C.O.P.

No.6427 of 2017 on the file of Motor Accidents Claims Tribunal / Principal Special Judge, Special Court under E.C & NDPS Act, Chennai, less the amount if any already deposited, within a period of two months from the date of receipt of copy of this Judgment.

20.1. On such deposit being made, the appellants in CMA.No.685 of 2023 / legal representatives of the petitioner are entitled to withdraw the same except the minor son's share by filing proper application.

20.2. The modified compensation amount shall be apportioned by the appellants in CMA No.685 of 2023 / legal representatives of the petitioner in the following manner:

- | | |
|---|---|
| (i) R.Pattu
[Mother / 1 st Appellant] | = Rs.3,71,928/- + proportionate interest |
| (ii) S.Radha
[Wife / 2 nd Appellant] | = Rs.15,00,000/- + proportionate interest |
| (iii) S.Bhuvaneshwari
[Daughter / 3 rd Appellant] | = Rs.7,00,000/- + proportionate interest |
| (iv) S.Logesh
[Son / 4 th Appellant] | = Rs.7,00,000/- + proportionate interest |



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20.3. The appellants in CMA.No.685 of 2023 / legal representatives of the petitioner are directed to pay necessary Court fee, if any, for the enhanced compensation.

20.4. While the daughter would have attained the age of majority, the son would still be a minor now and hence, his share shall be deposited in a nationalised bank until he attains the age of majority. The minor son's mother / 2nd appellant in CMA.No.685 of 2023 is entitled to receive the interest accruing thereon and utilise the same for the welfare of her minor son.

RESULT:

21. In the result,

- (i)** CMP No.29142 of 2024 in CMA No.685 of 2023 filed praying to receive additional documentary evidence is allowed and the documents are marked as Ex-P.17 to Ex-P.23;
- (ii)** The Civil Miscellaneous Appeal in CMA No.685 of 2023 filed by the legal representatives of the claimant is allowed in part with proportionate costs;
- (iii)** The Civil Miscellaneous Appeal in CMA No.109 of 2025 filed



CMA NOS.685 OF 2023 AND 109 OF 2025

by the Transport Corporation is dismissed without costs;

WEB COPY (iv) Consequently, connected Civil Miscellaneous Petition in CMP No.933 of 2025 in CMA No.109 of 2025 is closed.

[J.N.B., J.]

[R.S.V., J.]

08 / 04 / 2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
TK

**LIST OF ADDITIONAL DOCUMENTS MARKED
ON THE SIDE OF THE APPELLANTS / LEGAL
REPRESENTATIVES
OF THE PETITIONER / CLAIMANT**

<i>S.No</i> .	<i>Dated</i>	<i>Exhibit</i> s	<i>Description of documents</i>
1	19.03.2022	Ex-P.17	Photostat copy of Discharge summary of the deceased Selvam
2	01.06.2022	Ex-P.18	Photostat copy of Death certificate of the deceased Selvam
3	30.06.2022	Ex-P.19	Photostat copy of Legal Heirship Certificate
4	-	Ex-P.20	Photostat copy of Aadhaar Card of the 1 st appellant / Mrs.R.Pattu
5	-	Ex-P.21	Photostat copy of Aadhaar Card of the 2 nd appellant / Mrs.S.Radha
6	-	Ex-P.22	Photostat copy of Aadhaar Card of the 3 rd appellant / Minor S.Bhuvaneshwari
7		Ex-P.23	Photostat copy of Aadhaar Card of the 4 th appellant / Minor S.Logesh

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CMA NOS.685 OF 2023 AND 109 OF 2025

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[J.N.B., J.] [R.S.V., J.]
08 / 04 / 2025

To

1.The Motor Accidents Claims Tribunal
(In the Court of the Principal Special Judge,
Special Court under EC & NDPS Act)
Chennai – 600 104.

2.The Section Officer,
V.R.Section,
Madras High Court, Chennai.

J.NISHA BANU, J.
AND
R.SAKTHIVEL, J.

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PRE-DELIVERY COMMON JUDGMENT MADE IN
CMA NOS.685 OF 2023 AND 109 OF 2025



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CMA NOS.685 OF 2023 AND 109 OF 2025

08 / 04 / 2025