



C.M.A.Nos.554, 309, 569, 671 and 755 of 2025 and C.M.A.No.934 of 2024
and C.M.P.Nos.4140, 2203, 5356 and 6099 of 2025 and C.M.P.No.8708 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.03.2025

PRONOUNCED ON : 16.04.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.Nos.554, 309, 569, 671 and 755 of 2025
and C.M.A.No.934 of 2024
and C.M.P.Nos.4140, 2203, 5356 and 6099 of 2025
and C.M.P.No.8708 of 2024

C.M.A.No.554 of 2025:

The Branch Manager,
M/s. SBI General Insurance Company Limited,
No.58/2A, Chennai Main Road,
Villupuram – 605 602.

... Appellant

vs.

1.Muthulakshmi

2.Murugan

3.Amsavalli

4.Palanivel

5.Iyyappan

... Respondents



C.M.A.Nos.554, 309, 569, 671 and 755 of 2025 and C.M.A.No.934 of 2024
and C.M.P.Nos.4140, 2203, 5356 and 6099 of 2025 and C.M.P.No.8708 of 2024

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Final Award dated 06th day of August, 2024, passed in M.C.O.P.No.34 of 2023, by the Motor Accidents Claims Tribunal (Special District Court) at Villupuram.

For Appellant : Mr.J.Michael Visuvasam
(in CMA.No.554/2025)

M/s.Surekha N.B.
(in CMA.No.309/2025)

Mr.U.Chithambaram
(in CMA.No.569/2025)

Mr.Siva Kollapan B
(in CMA.Nos.671/2025 and 934/2024)

Mr.Vinod.K
(in CMA.No.755/2025)

For 1st Respondent : Mr.T.Gobinath
(CMA.No.934/2024)

Notice Dispensed With
(in CMA.No.569/2025)

For 2nd Respondent: Mr.Siva Kollapan B
(in CMA.No.569/2025)

: Notice Dispensed With
(in CMA.No.934/2024)



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COMMON JUDGMENT

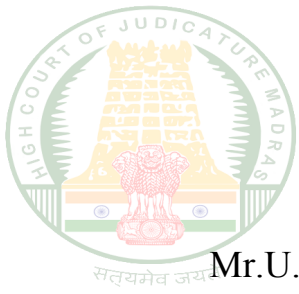
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The common question of law arising for consideration in all these Civil Miscellaneous Appeals is,

Whether Motor Accident Claims Tribunals are empowered to order pay and recovery against insurers in case of violation of policy conditions after deletion of proviso to old Section 149 (4) and 149 (5) [now renumbered as Section 150] of Motor Vehicles Act, 1988, by Motor Vehicles Amendment Act (Central Act 32 of 2019), with effect from 01.04.2022?

2. These appeals are either filed challenging the order passed by the Motor Accident Claims Tribunals ordering pay and recovery against the Insurance Companies in view of violation of policy conditions notwithstanding the above said amendment or exoneration of Insurance Companies by the Tribunals on the ground that proviso to old Section 149(4) was deleted by the Amending Act in New Section 150(4).

3. Heard the arguments of Mr.J.Michael Visuvasam, learned counsel appearing for the Appellant/Insurance Company in C.M.A.No.554 of 2025,



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Mr.U.Chithambaram, learned counsel appearing for the appellant/claimant in C.M.A.No.569 of 2025, M/s.Surekha N.B., learned counsel appearing for the Appellant/Insurance Company in C.M.A.No.309 of 2025, Mr.Siva Kollapan.B, learned counsel appearing for the Appellant/Insurance Company in C.M.A.No.671 of 2025 and C.M.A.No.934 of 2024 and Mr.Vinod.K, learned counsel appearing for the Appellant/Insurance Company in C.M.A.No.755 of 2025 and that of Mr.T.Gobinath, learned counsel appearing for the 1st respondent in C.M.A.No.934 of 2024 and Mr.Siva Kollapan.B, learned counsel appearing for the 2nd Respondent/Insurance Company in C.M.A.No.569 of 2025.

4. The learned counsel appearing for the Appellant/Insurance Company in C.M.A.Nos.554, 309, 755 and 671 of 2025 and C.M.A.No.934 of 2024 and the learned counsel appearing for the 2nd respondent/Insurance Company in C.M.A.No.569 of 2025 made their submissions against the pay and recovery order passed by the Tribunals. The learned counsel for appellant/claimant in C.M.A.No.569 of 2025 and other Members of the Bar present in the Court, made their submissions in favour of pay and recovery order.



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5. The learned counsel appearing for the Insurance Companies in respective appeals submitted that proviso to Section 149 Sub-Section (4) of un-amended Motor Vehicles Act, 1988 enabled the Tribunals to order pay and recovery in case of violation of policy conditions and the said proviso was deleted by Motor Vehicles Amendment Act, 2019 with effect from 01.04.2022 and hence, in the absence of enabling provision, the Tribunals are not entitled to order pay and recovery. In other words, it is their submission that once defence available to the insurer under Old Section 149(2) [New Section 150(2)] is pleaded and established, the insurer is absolved of its liability from making any payment either to the third party or to the insured. The learned counsel further submitted that by virtue of deletion of proviso to Section 149 Sub-Section (4) and Section 149 Sub-Section (5), the law laid down by the Apex Court in ***National Insurance Co. Ltd., vs. Swaran Singh and others*** reported in (2004) 3 SCC 297, is no longer a good law. In support of their contention, the learned counsel appearing for the Insurance Companies relied on the following judgments:-

- (i) ***British India General Insurance Co. Ltd., vs. Captain Itbar Singh and others*** reported in ***AIR 1959 SC 1331 = 1959 SCC OnLine SC***



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- (ii) *New India Assurance Co. Ltd., vs. Mandar Madhav Tambe and others* reported in *(1996) 2 SCC 328*.
- (iii) *New India Assurance Co. Ltd., vs. vs. Kamla and others* reported in *2001 ACJ 843*.
- (iv) *New India Assurance Co. Ltd., vs. C.M.Jaya and others* reported in *2002 ACJ 271*.
- (v) *National Insurance Co. Ltd., vs. Swaran Singh and others* reported in *2004 ACJ 1*.
- (vi) *United India Insurance Co. Ltd., vs. Sujata Arora and others* reported in *2013 ACJ 2129*.
- (vii) *Iffco Tokyo General Insurance Co. Ltd., vs. A.Jafer Sadiq* reported in *2012 (1) TN MAC 394 (DB)*.
- (viii) *M.S.Middle High School vs. HDFC ERGO General Ins. Co.Ltd., and others* reported in *2018 ACJ 2108*.
- (ix) *ICICI Lombard General Insurance Co. Ltd., vs. Smt. Arti Devi and 8 others* reported in *2025 (1) TN MAC 248*.

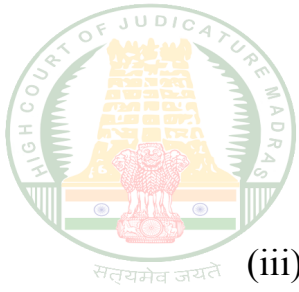


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6. Per contra, the learned counsel appearing for the appellant/claimant in C.M.A.No.569 of 2025 and others would submit that the very object of the Chapter-XI of Motor Vehicles Act, 1988, is to provide compensation to innocent third party road accident victims and therefore, merely because there is a violation of policy condition by the insured, the insurers are not entitled to avoid the liability towards the third parties. Much emphasis was made to the caption of New Section 150, which underlines the duty of the insurers to satisfy judgments and awards against persons insured in respect of third party risks. The learned counsel for the claimants further submitted that provisions of Motor Vehicles Act, 1988, shall be interpreted by the Courts so as to advance the object of the Act i.e., payment of compensation to the innocent third party victims. In support of their contentions, the learned counsel for the claimants relied on the following judgments:-

- (i) ***Oriental Insurance Co. Ltd. vs. Nanjappan and others*** reported in ***CDJ 2004 SC 327***.
- (ii) ***Shamanna and another vs. The Divisional Manager, The Oriental Insurance Co. Ltd., and others*** reported in ***CDJ 2018 SC 816***.



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(iii) ***State of Gujarat vs. Shantilal Mangaldas and others*** reported in

CDJ 1969 SC 079.

(iv) ***Pune Municipal Corporation and another vs. Harakchand***

Misirimal Solanki and others reported in ***CDJ 2014 SC 070.***

(v) ***Union of India and others vs. V.R.Nanukuttan Nair*** reported in ***CDJ***

2019 SC 1252.

(vi) ***Sant Ram vs. Rajinder Lal and others*** reported in ***CDJ 1978 SC***

140.

(vii) ***ICICI Lombard General Insurance Co. Ltd., vs. Smt. Arti Devi***

and 8 others reported in ***2025 (1) TN MAC 248.***

7. Chapter-XI of Motor Vehicles Act, 1988 deals with Insurance of Motor Vehicles Against Third Party Risks. Sections 145 to 164 are arranged in Chapter-XI of the Principal Act. Section 51 of the Motor Vehicles Amendment Act, 2019 passed by the Parliament replaced entire Chapter-XI of the Principal Act with a New Chapter-XI which contains Sections 145 to 164-D. The caption of New Chapter-XI also reads as “Insurance of Motor Vehicles Against Third Party Risks”.



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8. A close scrutiny of New Chapter would indicate following

important changes are made by the Parliament:-

- (1) Section 147(1)(b)(ii)-gratuitous passengers in goods vehicles are exempted from statutory liability.
- (2) Section 147(2)-Government is given power to limit liability for third parties by notification, with reference to base premium.
- (3) Section 147(4)-contains savings clause, which declares that the rights and liabilities of parties will be governed by terms of policy and old provisions of the Act as far as policies issued prior to the commencement of new act.
- (4) Section 149-provides for settlement by Insurance Company immediately after receipt of information regarding accident.
- (5) Old Section 149 was renumbered as Section 150 in the New Act and proviso to Sub-Section 4, Sub-Sections 5 and 6 were removed. Sub-Section 7 of Old Section 149 renumbered as Sub-Section 5 of New Section 150.
- (6) Sub Section 6 was introduced in New Section 150 which imposes



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duty on the owner of the vehicle to furnish the details of insurer, if the claimant is unaware of the same.

9. In the case on hand, we are only considering the impact of deletion of proviso to Sub-Section 4 of old Section 149 and Sub-Section 5 of old Section 149 in the corresponding new Section 150.

10. Section 147 of the Motor Vehicles Act, 1988, after amendment reads as follows:-

“147. Requirement of policies and limits of liability.-

(1) In order to comply with the requirements of this Chapter, a policy of insurance must be a policy which-

*(a) is issued by a person who is an authorised insurer;
and*

(b) insures the person or classes of persons specified in the policy to the extent specified in sub-section (2)-

(i) against any liability which may be incurred by him in respect of the death of or bodily injury to any person including owner of the goods or his authorised representative carried in the motor vehicle or damage to any property of a



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third party caused by or arising out of the use of the motor vehicle in a public place;

(ii) against the death of or bodily injury to any passenger of a transport vehicle, except gratuitous passengers of a goods vehicle, caused by or arising out of the use of the motor vehicle in a public place.

Explanation.-For the removal of doubts, it is hereby clarified that the death of or bodily injury to any person or damage to any property of a third party shall be deemed to have been caused by or to have arisen out of, the use of a vehicle in a public place, notwithstanding that the person who is dead or injured or the property which is damaged was not in a public place at the time of the accident, if the act or omission which led to the accident occurred in a public place.

(2) Notwithstanding anything contained under any other law for the time being in force, for the purposes of third party insurance related to either death of a person or grievous hurt to a person, the Central Government shall prescribe a base premium and the liability of an insurer in relation to such premium for an insurance policy under sub-section (1) in consultation with the Insurance Regulatory and Development Authority.



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(3) A policy shall be of no effect for the purposes of this Chapter unless and until there is issued by the insurer in favour of the person by whom the policy is effected, a certificate of insurance in the prescribed form and containing the prescribed particulars of any condition subject to which the policy is issued and of any other prescribed matters; and different forms, particulars and matters may be prescribed in different cases.

(4) Notwithstanding anything contained in this Act, a policy of Insurance issued before the commencement of the Motor Vehicles (Amendment) Act, 2019 shall be continued on the existing terms under the contract and the provisions of this Act shall apply as if this Act had not been amended by the said Act.

(5) Where a cover note issued by the insurer under the provisions of this Chapter or the rules or regulations made thereunder is not followed by a policy of insurance within the specified time, the insurer shall, within seven days of the expiry of the period of the validity of the cover note, notify the fact to the registering authority or to such other authority as the State Government may prescribe.

(6) Notwithstanding anything contained in any other law for the time being in force, an insurer issuing a policy of



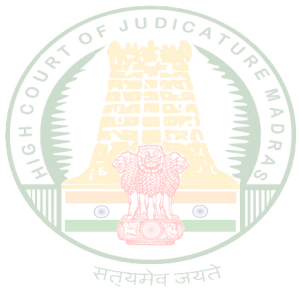
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insurance under this section shall be liable to indemnify the person or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of that person or those classes of persons. ”

11. Old Section 149 of the Motor Vehicles Act prior to amendment, stood as follows:-

"149. Duty of insurers to satisfy judgments and awards against persons insured in respect of third party risks. (1) If, after a certificate of insurance has been issued under sub-section (3) of Section 147 in favour of the person by whom a policy has been effected, judgment or award in respect of any such liability as is required to be covered by a policy under clause (b) of sub-section (1) of section 147 (being a liability covered by the terms of the policy) [or under the provisions of section 163 A] is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy, the insurer shall, subject to the provisions of this section, pay to the person entitled to the benefit of the decree any sum not exceeding the sum assured payable thereunder, as if he were the judgment debtor, in respect of the liability, together with any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments.



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(2) No sum shall be payable by an insurer under sub-section (1) in respect of any judgment or award unless, before the commencement of the proceedings in which the judgment or award is given the insurer had notice through the Court or, as the case may be, the Claims Tribunal of the bringing of the proceedings, or in respect of such judgment or award so long as execution is stayed thereon pending an appeal; and an insurer to whom notice of the bringing of any such proceedings is so given shall be entitled to be made a party thereto and to defend the action on any of the following grounds, namely:-

(a) that there has been a breach of a specified condition of the policy, being one of the following conditions namely:-

(i) a condition excluding the use of the vehicle

(a) for hire or reward, where the vehicle is on the date of the contract of insurance a vehicle not covered by a permit to ply for hire or reward, or

(b) for organised racing and speed testing, or

(c) for a purpose not allowed by the permit under which the vehicle is used, where the vehicle is a transport vehicle, or

(d) without side-car being attached where the vehicle is a motor cycle; or

(ii) a condition excluding driving by a named



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person or persons or by any person who is not duly licensed, or by any person who has been disqualified for holding or obtaining a driving licence during the period of disqualification; or

(iii) a condition excluding liability for injury caused or contributed to by conditions of war, civil war, riot or civil commotion; or

(b) that the policy is void on the ground that it was obtained by the non- disclosure of a material fact or by a representation of fact which was false in some material particular.

(3) Where any such judgment as is referred to in sub-section (1) is obtained from a Court in a reciprocating country and in the case of a foreign judgment is, by virtue of the provisions of section 13 of the Code of Civil Procedure, 1908 (5 of 1908) conclusive as to any matter adjudicated upon by it, the insurer (being an insurer registered under the Insurance Act, 1938 (4 of 1938) and whether or not he is registered under the corresponding law of the reciprocating country) shall be liable to the person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1), as if the judgment were given by a Court in India:

Provided that no sum shall be payable by the insurer in respect of any such judgment unless, before the commencement



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of the proceedings in which the judgment is given, the insurer had notice through the Court concerned of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding law of the reciprocating country, to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2).

(4) Where a certificate of insurance has been issued under sub-section (3) of section 147 to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby by reference to any conditions other than those in clause (b) of sub-section (2) shall, as respects such liabilities as are required to be covered by a policy under clause (b) of sub-section (1) of section 147, be of no effect.

Provided that any sum paid by the insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this sub-section shall be recoverable by the insurer from that person.

(5) If the amount which an insurer becomes liable under this section to pay in respect of a liability incurred by a person insured by a policy exceeds the amount for which the insurer would apart from the provisions of this section be liable under the policy in respect of that liability, the insurer shall be



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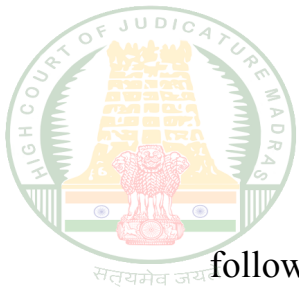
entitled to recover the excess from that person.

(6) In this section the expressions "material fact" and "material particular" means, respectively a fact or particular of such a nature as to influence the judgment of a prudent insurer in determining whether he will take the risk and, if so at what premium and on what conditions and the expression "liability covered by the terms of the policy" means a liability which is covered by the policy or which would be so covered but for the fact that the insurer is entitled to avoid or cancel or has avoided or cancelled the policy.

(7) No insurer to whom the notice referred to in sub-section (2) or sub- section (3) has been given shall be entitled to avoid his liability to any person entitled to the benefit of any such judgment or award as is referred to in sub-section (1) or in such judgment as is referred to in sub-section (3) otherwise than in the manner provided for in sub-section (2) or in the corresponding law of the reciprocating country, as the case may be.

Explanation- For the purpose of this Section "Claims Tribunal" means a Claim Tribunal constituted under Section 165 and "award" means an award made by that Tribunal under Section 168."

12. New Section 150 of the Motor Vehicles Act, 1988, reads as



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follows:-

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“150. Duty of insurers to satisfy judgments and awards against persons insured in respect of third party risks.- (1) If, after a certificate of insurance has been issued under sub-section (3) of section 147 in favour of the person by whom a policy has been effected, judgment or award in respect of any such liability as is required to be covered by a policy under clause (b) of sub-section (1) of section 147 (being a liability covered by the terms of the policy) or under the provisions of section 164 is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy, the insurer shall, subject to the provisions of this section, pay to the person entitled to the benefit of the award any sum not exceeding the sum assured payable thereunder, as if that person were the decree holder, in respect of the liability, together with any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments.

(2) No sum shall be payable by an insurer under sub-section (1) in respect of any judgment or award unless, before the commencement of the proceedings in which the judgment or award is given the insurer had notice through the court or, as the case may be, the Claims Tribunal of the bringing of the



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proceedings, or in respect of such judgment or award so long as its execution is stayed pending an appeal; and an insurer to whom notice of the bringing of any such proceedings is so given shall be entitled to be made a party thereto, and to defend the action on any of the following grounds, namely:-

(a) that there has been a breach of a specified condition of the policy, being one of the following conditions, namely:-

(i) a condition excluding the use of the vehicle-

(A) for hire or reward, where the vehicle is on the date of the contract of insurance a vehicle not covered by a permit to ply for hire or reward; or

(B) for organised racing and speed testing; or

(C) for a purpose not allowed by the permit under which the vehicle is used, where the vehicle is a transport vehicle; or

(D) without side-car being attached where the vehicle is a two-wheeled vehicle; or

(ii) a condition excluding driving by a named person or by any person who is not duly licenced or by any person who has been disqualified for holding or obtaining a driving licence during the period of disqualification or driving under the influence of alcohol or drugs as laid down in section 185; or

(iii) a condition excluding liability for injury caused or



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contributed to by conditions of war, civil war, riot or civil commotion; or

(b) that the policy is void on the ground that it was obtained by non-disclosure of any material fact or by representation of any fact which was false in some material particular; or

(c) that there is non-receipt of premium as required under section 64VB of the Insurance Act, 1938 (4 of 1938).

(3) Where any such judgment or award as is referred to in sub-section (1) is obtained from a court in a reciprocating country and in the case of a foreign judgment is, by virtue of the provisions of section 13 of the Code of Civil Procedure, 1908 (5 of 1908) conclusive as to any matter adjudicated upon by it, the insurer (being an insurer registered under the Insurance Act, 1938 (4 of 1938) and whether or not that person is registered under the corresponding law of the reciprocating country) shall be liable to the person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1), as if the judgment or award were given by a court in India:

Provided that no sum shall be payable by the insurer in respect of any such judgment or award unless, before the commencement of the proceedings in which the judgment or award is given, the insurer had notice through the court



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concerned of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding law of the reciprocating country, to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2).

(4) Where a certificate of insurance has been issued under sub-section (3) of section 147 to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby, by reference to any condition other than those in sub-section (2) shall, as respects such liabilities as are required to be covered by a policy under clause (b) of sub-section (1) of section 147, be of no effect.

(5) No insurer to whom the notice referred to in sub-section (2) or sub-section (3) has been given shall be entitled to avoid his liability to any person entitled to the benefit of any such judgment or award as is referred to in sub-section (1) or in such judgment as is referred to in sub-section (3) otherwise than in the manner provided for in sub-section (2) or in the corresponding law of the reciprocating country, as the case may be.

(6) If on the date of filing of any claim, the claimant is not aware of the insurance company with which the vehicle had been insured, it shall be the duty of the owner of the



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vehicle to furnish to the tribunal or court the information as to whether the vehicle had been insured on the date of the accident, and if so, the name of the insurance company with which it is insured.

Explanation.-For the purposes of this section,-

(a) "award" means an award made by the Claims Tribunal under section 168;

(b) "Claims Tribunal" means a Claims Tribunal constituted under section 165;

(c) "liability covered by the terms of the policy" means the liability which is covered by the policy or which would be so covered but for the fact that the insurer is entitled to avoid or cancel or has avoided or cancelled the policy; and

(d) "material fact" and "material particular" mean, respectively, a fact or particular of such a nature as to influence the judgment of a prudent insurer in determining whether he shall take the risk and, if so, at what premium and on what conditions."

13. A close scrutiny of Old Section 149 Sub-Section (1) and New Section 150 Sub-Section (1) makes it clear that it imposes an obligation on the part of the insurer to satisfy the judgments and awards passed against the insured in respect of third party risks. Old Section 149 Sub-Section (2) and

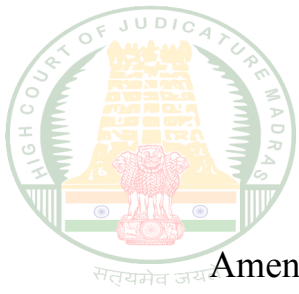


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New Section 150 Sub-Section (2) makes it clear that no amount is payable by the insurer under Sub-Section 1 unless the insurer was given a notice of proceedings in which judgment or award referred to in Sub-Section 1 was passed and insurer was made as a party and allowed to defend the action on the grounds mentioned in Sub-Section 2. Sub-Section 4 makes it clear that any restriction on the liability of the insurer in the policy other than the defence provided under Old Section 149 Sub-Section (2)(b) [Section 150 Sub-Section (2) of New Act] would be of no effect in so far as third party victims are concerned.

14. A combined reading of Section 149 Sub-Section (1) and Sub-Section (4) of said section [Sub-Section (1) of New Section 150 and Sub-Section (4) of New Section 150] would make it clear that in cases where certificate of insurance has been issued by insurer under Section 147 (3), the insurer has got statutory duty to satisfy the judgments and awards passed against persons insured in respect of third party risks.

15. Section 149(1) of Motor Vehicles Act [Section 150(1) after 2019

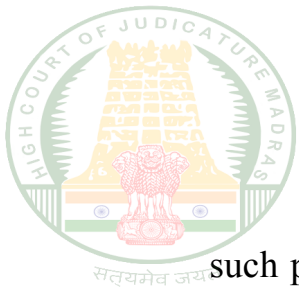


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Amending Act] imposes statutory liability on the insurer to satisfy judgment and award obtained by third party victim against insured. Section 150(1) of Motor Vehicles Act was incorporated by the Parliament with the sole object of providing compensation to the third party road accident victims. The liability of the insurer as against the third party under Section 150 (1) is a statutory liability and the same is not based on the contract between insurer and insured. The innocent third party victims of road accident are not aware of the terms and conditions of the contract between the insurer and the insured. Therefore, the Parliament in its wisdom declared, under Section 149(1) [New Section 150(1)] the statutory liability of insurer as against third party begins on issuance of certificate of insurance under Section 147(3).

16. The said statutory liability of the insurer is notwithstanding it's right to avoid or cancel the policy as against the insured. Merely because, insurer/Insurance Company has right to avoid or cancel the policy or actually avoided or cancelled the policy, it cannot escape from liability of satisfying the judgment or award passed against the insured. The only condition imposed by Section 150(2) of Motor Vehicles Act is notice of



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such proceedings in which judgment and award was passed against insured shall be given to the insurer and insurer shall be afforded with an opportunity to defend the claim on any of the grounds mentioned under Sub-Section 2. The right to defend action under Sub-Section 2 of Section 150 is based on certain grounds mentioned therein over which innocent third party victims have no control. The grounds or conditions mentioned under Sub-Section 2 of Section 150 are privy to the insured and third party victims may not have any knowledge about the compliance or violation of the conditions mentioned therein. Therefore, whenever a defence under Sub-Section 2 is taken by the insurer, the third party victims may not be in a position to encounter the same with a counter defence. Only the insured will be in a position to contest or dispute the defence raised by the insurer. For example, if the insurer raised a defence that vehicle was driven by a person not holding an effective driving licence at the time of accident, the third party victim may not be in a position to say, whether the driver of the insured vehicle possessed valid driving licence at the time of accident or not. The person, who is capable of contesting the defence raised by the insurer is the insured. Therefore, Section 150 (2) only enables the Motor

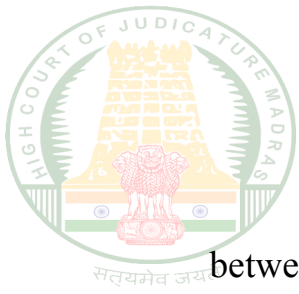


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Accident Claims Tribunals to adjudicate on the dispute *inter se* between insurer and insured. This Court should also take note of the fact that in most of the Motor Accident Claims cases, the insured/owner of the vehicle will remain *exparte* and the poor innocent third party victim will not have any clue regarding the defence raised by the insurer like absence of permit, absence of valid driving licence etc.

17. In case, the insurer becomes successful in pleading and proving defences available to it under Section 150 Sub-Section 2, it need not honour its duty under the contract of insurance towards the insured. However, the statutory liability under Section 150(1) towards third party remains unaffected, the natural corollary would be after making payment under Section 150 (1), the insurer is entitled to recover the said amount from the insured by virtue of its successful defence raised under Section 150 (2). The liability of insurer under Section 149 (1) [New Section 150 (1)] is a statutory liability and on the other hand it is concomitant with liability of insurer towards insured. If we say that the liability of insurer to satisfy award passed against insured is subject to terms and conditions of contract

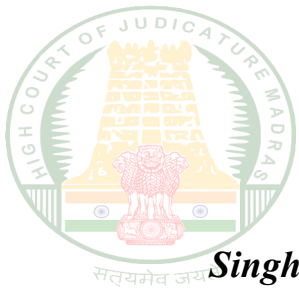


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between insurer and insured, over which innocent third party victims have no control, the very object of statutory liability enshrined in Section 147 (1)(b) read with Section 149 (1) [New Section 147 (1)(b) read with Section 150 (1)] of Motor Vehicles Act will get defeated. The object of said provision is better served by concept of “pay and recovery” enunciated in ***Swaran Singh*** case cited infra. Infact, in Swaran Singh case (in paragraphs 96 and 97), the Apex Court emphasised that the concept of pay and recovery has been holding the field for a long time and the same need not be deviated. The concept of “pay and recovery” will achieve the object of providing hassle free mechanism for poor accident victims to recover the damages awarded to them with certainty and on the other hand it also takes care of insurer's right under contract of insurance by enabling insurer to recover the amount paid by it to third parties, which insurer is not bound to pay to the insured.

18. Therefore, the insurer has to pay and recover in the event of it's success in respect of defences under Section 150 (2). This position has been clearly declared by Apex Court in ***National Insurance Co. Ltd., vs. Swaran***



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Singh and others reported in (2004) 3 SCC 297, wherein Apex Court held that in the event of insured being guilty of negligence or has failed to exercise reasonable care in fulfilling conditions of contract of insurance and the breach was so fundamental and was found to have contributed to the accident, the insurer is entitled to avoid its liability towards insured. I would like to emphasize, even in that event insurer is not entitled to avoid its statutory liability towards third parties. It can only avoid its liability under contract of insurance towards insured and hence, entitled to recover the amount paid by it from insured. I would like to add that liability of insurer under Motor Vehicles Act is a blend of liability under statute and liability under contract of indemnity. Its liability under Section 150(1) towards third party is a statutory one. Its liability towards insured is under contract of indemnity (contract of insurance).

19. Section 146 of Motor Vehicles Act compels insured (owner of vehicle) to enter into contract of indemnity (insurance) with an authorised insurer atleast in respect of third party risks [as enshrined in Section 147(1)(b) read with 147(2)]. The object of Section 146 is to cover third



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party risk and ensure hassle free remedy for affected third party to get compensation amount. In order to achieve the object of Section 146, the Parliament enacted Section 149(1) [now Section 150(1)] fixing statutory liability on insurer from the time it issues certificate of insurance.

20. The true object and scope of Section 96(1) of Motor Vehicles Act 1939/Old Section 149 (1) of Motor Vehicles Act 1988/New Section 150 (1) of Motor Vehicles Act 1988 as amended by Central Act 32 of 2019, can be understood by looking at the law prior to introduction of Motor Vehicles Act, providing for compulsory insurance in respect of third party risks. Under common law, the right of road accident victims to get compensation stems out of law of torts. The road accident victim is entitled to file a suit for recovery of damages against tortfeasor. Suppose tortfeasor has any contract of insurance covering the risk faced by him in case of motor vehicles on road, after paying the victim, he (tortfeasor) has to file another suit against insurer to get himself indemnified. If the tortfeasor is not a person of means, the accident victim may not be in a position to recover any amount pursuant to the decree obtained by him against the tortfeasor. His



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decree, in that case, will remain a paper decree, notwithstanding the fact that there is a contract of insurance between tortfeasor and insurer. In common law, the accident victim cannot sue the insurer of tortfeasor directly, because there is no privity of contract between him and insurer. In that case, the position of accident victim will be pitiable, as he cannot get any compensation inspite of decree in his favour. In order to over come this pitiable, unfortunate situation and to ensure certainty of road accident victims get their due compensation, the parliament enacted old Section 149 (1) [New Section 150 (1)] under Motor Vehicles Act, 1988 [Section 96 (1) under Motor Vehicles Act 1939] fixing statutory liability on the insurer of motor vehicle owner [tortfeasor] to satisfy judgment or award passed against insured [owner of vehicle/tortfeasor].

21. The enactment of Section 149(1) [New Section 150 (1)] prevents multiplicity of legal proceedings. There need not be two suits, one by road accident victim against tortfeasor for recovery of damages and another by tortfeasor against insurer seeking indemnity. This provision of Motor Vehicles Act, combines both the actions. The history and object of this



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section makes it clear that the defences available to insurer under Section 149 (2) [New Section 150 (2)] are only against the insured. Under common law, these defences were available to insurer only in a suit by insured against insurer seeking indemnity. Those defences are now statutorily recognised. In order to enable insurer to establish its defences under Section 149(2) [New Section 150(2)], the said sub-section requires notice shall be issued to insurer and it shall be made as a party to the proceedings. The liability of insurer to satisfy judgment or award obtained by road accident victim against tortfeasor (insured) remains unaffected by establishment or otherwise of defences available to insurer under said sub-section. The main object of fixing statutory liability on the insurer to satisfy award passed against insured is to ensure that victims get compensation amount in hassle free manner. In this regard, I would like to refer to the judgment by Three Member Bench of Supreme Court in *New Asiatic Insurance Company Limited vs Pessumal Dhanamal Aswani and others* reported in *AIR 1964 SC 1736 = 1964 SCC OnLine SC 334*. The relevant observation of Supreme Court reads as follows:-

“12. Chapter VIII of the Act, it appears from the heading, makes provision for insurance of the vehicle against



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third-party risks, that is to say, its provisions ensure that third parties who suffer on account of the user of the motor vehicle would be also to get damages for injuries suffered and that their ability to get the damages will not be dependent on the financial condition of the driver of the vehicle whose user led to the causing of the injuries. The provisions have to be construed in such a manner as to ensure this object of the enactment. (emphasis supplied by this Court)

... ..

... ..

16. Sub-section (5) of section 95 makes the insurer liable to indemnify the person or classes of person specified in the policy in respect of any liability which the policy purports to cover in the case of that person or those classes of person. If the policy covers the insured for his liability to third parties, the insurer is bound to indemnify the person or classes of person specified in the policy. The same is the effect of sub-section (1) of section 96 which provides that the insurer is bound to pay to the person entitled to the benefit of a decree he obtains in respect of any liability covered by the terms of the policy against any person insured by the policy irrespective of the fact whether the insurer was entitled to avoid or cancel or might have avoided or cancelled the policy. This means that once the insurer has issued a certificate of insurance in accordance with sub-section (4) of section 95 he has to satisfy



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any decree which a person receiving injuries from the use of the vehicle insured obtains against any person insured by the policy. He is however liable to satisfy the decree only when he has been served with a notice under sub-section (2) of section 96 about the proceedings in which the judgment was delivered. (emphasis supplied by this Court)

... ..

... ..

21. The Act contemplates the possibility of the policy of insurance undertaking liability to third parties providing such a contract between the insurer and the insured, that is, the person who effected the policy, as would make the company entitled to recover the whole or part of the amount it has paid to the third party from the insured. The insurer thus acts as security for the third party with respect to its realising damages for the injuries suffered but vis-a-vis the insured, the company does not undertake that liability or undertakes it to a limited extent. It is in view of such a possibility that various conditions are laid down in the policy. Such conditions, however, are effective only between the insured and the company, and have to be ignored when considering the liability of the company to third parties.

(emphasis supplied by this Court)

... ..

... ..

22. Thus the contract between the insured and the



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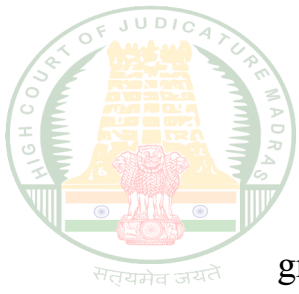
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company may not provide for all the liabilities which the company has to undertake vis-a-vis the third parties, in view of the provisions of the Act. We are of opinion that once the company had undertaken liability to third parties incurred by the per sons specified in the policy, the third parties' right to recover any amount under or by virtue of the provisions of the Act is not affected by any condition in the policy.”

(emphasis supplied by this Court)

22. It was vehemently contended by Mr.Michael Visuvasam and other learned counsel appearing for Insurance Companies that liability on insurer under Section 149(1) [now Section 150(1)] is subject to Sub-Section (2) of said Section. Therefore, once insurer has established defences available to it under Sub-Section (2) its statutory liability gets vanished. Much emphasis was made on expression “subject to the provisions of this section” employed in Sub-Section (1). This Court would like to point out that Sub-Section (2) of Section 149 [now Section 150(2)] imposes three conditions,

- (1) The insurer shall be given a notice of proceedings in which judgment or award passed under Sub-Section (1).
- (2) The insurer shall be made as a party to that proceedings.
- (3) The insurer shall be afforded with an opportunity to defend action on



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grounds enumerated under Sub-Section (2) (a) and (b) [New Section 150 (2)(a), (b) and (c)].

If these three conditions are not fulfilled, insurer is not liable to pay amount under Sub-Section (1). In other words Section (2) of Old Section 149 (New Section 150 (2)) prescribes a mandatory procedure and violation of the same results in negation of liability imposed on insurer. Once those three procedures are fulfilled, statutory liability of insurer towards third party becomes absolute subject to its right to avoid contractual liability towards insured. As mentioned earlier, Old Section 149(2) [new Section 150 (2)] prescribes a mandatory procedure to decide *inter se* dispute between insurer and insured. The outcome or adjudication of said dispute will not affect the right created in favour of innocent third parties under Sub-Section (1), unless the breach or violation by insured is so fundamental as held by Apex Court in Swaran Singh case cited supra. The establishment of defences enumerated under Sub-Section (2) will enable insurer to avoid its liability towards insured. It can be gathered from employment of non-obstante clause in Sub-Section (1), which says “notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy”.



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Therefore, the expression “subject to the provisions of this section” is restricted to compliance of above said three procedures contemplated under the Sub-Section (2) to enable insurer to establish defence and avoid liability towards insured in the very same claim proceedings initiated by third parties. Any other interpretation, as argued by learned counsel for insurers will defeat the very object of Chapter XI of Motor Vehicles Act, which is aimed at providing hassle free remedy to innocent road accident victims. The law laid down by the Three Member Bench of Supreme Court in *New Asiatic Insurance* case and *Swaran Singh* case cited supra leads me to such a conclusion.

23. In this regard, at the risk of repetition, I would like to refer to decision of Three Member Bench of Apex Court in *National Insurance Co. Ltd., vs. Swaran Singh and others* reported in (2004) 3 SCC 297, wherein while considering the consequence of breach of policy conditions, the Apex Court categorically held that in order to avoid its liability towards insured, the insurer has to prove that insured was guilty of negligence and failed to exercise reasonable care in the matter of fulfilling the condition of the



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policy regarding use of vehicle, the relevant observation reads as follows:-

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“102. The summary of our findings to the various issues as raised in these petitions are as follows:

(i) Chapter XI of the Motor Vehicles Act, 1988 providing compulsory insurance of vehicles against third party risks is a social welfare legislation to extend relief by compensation to victims of accidents caused by use of motor vehicles. The provisions of compulsory insurance coverage of all vehicles are with this paramount object and the provisions of the Act have to be so interpreted as to effectuate the said object.

(ii) Insurer is entitled to raise a defence in a claim petition filed under Section 163-A or Section 166 of the Motor Vehicles Act, 1988, inter alia, in terms of Section 149(2)(a)(ii) of the said Act.

(iii) The breach of policy conditions, e.g., disqualification of driver or invalid driving licence of the driver, as contained in sub-section (2)(a)(ii) of section 149, have to be proved to have been committed by the insured for avoiding liability by the insurer. Mere absence, fake or invalid driving licence or disqualification of the driver for driving at the relevant time, are not in themselves defences available to the insurer against either the insured or the third parties. To avoid its liability towards insured, the insurer has to prove that



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the insured was guilty of negligence and failed to exercise reasonable care in the matter of fulfilling the condition of the policy regarding use of vehicles by duly licensed driver or one who was not disqualified to drive at the relevant time.”

(emphasis supplied)

In the above decision, Apex Court clearly held that breach of policy condition by insured as contained in Old Section 149(2)(a)(ii) [New Section 150 (2)(a)(ii)] only enables insurer to avoid its liability towards insured.

24. Therefore, if the insured is guilty of negligence or failed to exercise reasonable care in the matters of fulfilling conditions of the policy, the insurer is entitled to avoid its liability towards insured under the contract of insurance. However, its statutory liability under Section 149 (1) [now Section 150 (1)] towards innocent third parties remains unaffected. The insurer by virtue of its statutory liability shall pay the amount payable by the insured to the third party victims and recover the said amount from the insured as insurer is entitled to refuse indemnity in view of the breach committed by the insured. In this regard, I would like to refer to Paragraph No.102 (ix) and (x) of decision of Apex Court in **Swaran Singh** case cited supra, which reads as follows:-



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“102. (ix) The Claims Tribunal constituted under Section 165 read with Section 168 is empowered to adjudicate all claims in respect of the accidents involving death or bodily injury or damage to property of third party arising from use of motor vehicle. The said power of the tribunal is not restricted to decide the claims, inter se, between claimant or claimants on one side and insured, insurer and driver on the other. In the course of adjudicating the claim for compensation and to decide the availability of defence or defences to the insurer, the Tribunal has necessarily the power and jurisdiction to decide disputes inter se between insurer and the insured. The decision rendered on the claims and disputes inter se between the insurer and insured in the course of adjudication of claim for compensation by the claimants and the award made thereon is enforceable and executable in the same manner as provided in Section 174 of the Act for enforcement and execution of the award in favour of the claimants.

(x) Where on adjudication of the claim under the Act the Tribunal arrives at a conclusion that the insurer has satisfactorily proved its defence in accordance with the provisions of section 149(2) read with sub-section (7), as interpreted by this Court above, the Tribunal can direct that the insurer is liable to be reimbursed by the insured for the compensation and other amounts which it has been compelled

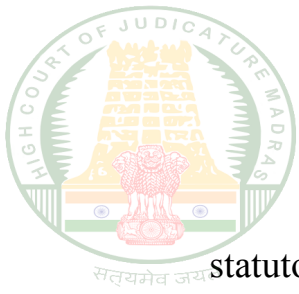


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to pay to the third party under the award of the tribunal. Such determination of claim by the Tribunal will be enforceable and the money found due to the insurer from the insured will be recoverable on a certificate issued by the tribunal to the Collector in the same manner under Section 174 of the Act as arrears of land revenue. The certificate will be issued for the recovery as arrears of land revenue only if, as required by sub-section (3) of Section 168 of the Act the insured fails to deposit the amount awarded in favour of the insurer within thirty days from the date of announcement of the award by the tribunal.”

25. The proviso to Old Section 149 (4) declares that amount paid by the insurer by virtue of said sub-section shall be recoverable by the insurer. The proviso is only declaratory in nature and its application is restricted to contingency contemplated under Section 149(4). It was vehemently argued by the learned counsel appearing for the Insurance Company that in view of deletion of proviso to Section 149 (4), the Tribunals are not entitled to order pay and recovery. The deleted proviso is not a substantive section which imposes obligation on the insurer to pay innocent third parties in respect of judgment and award obtained by them against the insured. As elaborately discussed above, the substantive provision is old Section 149(1). It imposes

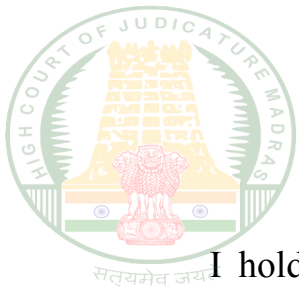


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statutory obligation on the part of the insurer to pay amount to the third parties, which is due under the award obtained by them against insured.

Therefore, the deletion of proviso will not take away the liability of the insurer imposed by Section 149(1) [New Section 150(1)] to satisfy the award or judgment passed against insured. The position can be seen in different angle also. A perusal of Old Section 149(4) [New Section 150(4)] makes it clear that any extra restriction agreed to by insurer and the insured under contract of insurance, which falls out side the defences enumerated under old Section 149(2)(b) [New Section 150(2)], will have no effect as far as statutory liability of insurer against third parties as enumerated under Section 147(1)(b). When insurer is asked to pay more amount only by virtue of Section 149(4), proviso to said sub-section gets attracted and insurer is entitled to recover that excess amount paid by it by virtue of enlarged liability only by virtue of Section 149(4). Old Proviso to Section 149(4) only made applicable to any amount paid by insurer by virtue of Sub-Section (4). The said proviso is not made applicable to Sub-Section (1) of old Section 149. The same can be gathered from employment of expression “by virtue only of this sub-section” in proviso to Section 149 (4). Therefore,



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I hold that deletion of proviso to Sub-Section 4 of Section 149 [in new Section 150] will not affect statutory liability of insurer under Section 149(1) [New Section 150(1)] and its entitlement to recover amount paid to third parties from insured in case of establishment of defence under Sub-Section (2).

26. The next question to be decided is even if insurer is directed to pay as per the mandate under Section 149 (1), whether the Tribunals can order consequential recovery in the absence of proviso to Sub-Section (4). This Court would like to emphasis that the deleted proviso was only clarificatory in nature which talked about the consequences of payment made by insurer in respect of contingency contemplated under old Section 149(4). Its application was restricted to Sub-Section (4). However, statutory duty under Section 149 Sub-Section (1) compels insurer to pay the award amount. The natural consequence of insurer's success in raising defence under Sub-Section (2) would be its entitlement to recover the amount paid by it to the third party from the insured. Therefore, notwithstanding deletion of proviso to Sub-Section (4), this Court feels that Tribunal can very well



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order recovery against the insured while upholding defence raised by insurer under Sub-Section (2). Otherwise, there will be no meaning in allowing insurer to raise defence enumerated under Sub-Section (2). The Old Section 149(2) [New Section 150 (2)] enables Tribunals to adjudicate *inter se* dispute between insurer and insured, over which innocent third party victim has no control or clue. The power to order recovery is inherent part of jurisdiction to adjudicate *inter se* dispute between insurer and insured contemplated under Sub-Section (2).

27. If the intention of the Parliament is to deny compensation to innocent third parties in case of violation of policy conditions as mentioned in Sub-Section (2) absolutely, there is no need to keep the language of the Sub-Section (1) of New Section 150 as it was in the case of Old Section 149(1). Infact, as rightly pointed out by the learned counsel appearing for the claimants, the title of old Section 149 itself emphasis duty of the insurers to satisfy judgments and awards passed against persons insured in respect of third party risks, the same reads as follows:-

***“149. Duty of insurers to satisfy judgments and awards
against persons insured in respect of third party risks.”***

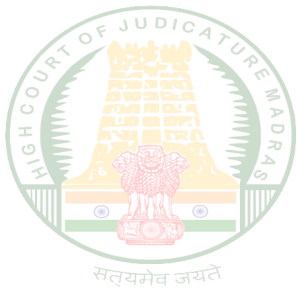


C.M.A.Nos.554, 309, 569, 671 and 755 of 2025 and C.M.A.No.934 of 2024
and C.M.P.Nos.4140, 2203, 5356 and 6099 of 2025 and C.M.P.No.8708 of 2024

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28. The very same title or caption is retained in New Section 150 of Motor Vehicles Act. Further, defences enumerated under Section 150(2) are result of breach/omission by insured over which innocent third parties have no control. Hence, it is highly inequitable to interpret the section against its own title and object of main enactment. In this regard, it would be appropriate to refer to observation of Apex Court in ***British India General Insurance Co. Ltd., vs. Captain Itbar Singh and others*** reported in ***1959 SCC OnLine SC 32***, which reads thus:-

“17. It was said that the assured might be a man of straw and the insurer might not be able to recover anything from him. But the answer to that is that it is the insurer's bad luck. In such circumstances the injured person also would not have been able to recover the damages suffered by him from the assured, the person causing the injuries. The loss had to fall on some one and the statute has thought fit that it shall be borne by the insurer. That also seems to us to be equitable for the loss falls on the insurer in the course of his carrying on his business, a business out of which he makes profit, and he could so arrange his business that in the net



C.M.A.Nos.554, 309, 569, 671 and 755 of 2025 and C.M.A.No.934 of 2024
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result he would never suffer a loss. On the other hand, if the loss fell on the injured person, it would be due to no fault of his; it would have been a loss suffered by him arising out of an incident in the happening of which he had no hand at all.”
(emphasis supplied)

The Apex Court in the above mentioned case law in a beautiful language emphasised the plight of third party victims and ability of insurer to cope up with liability created by law under Section 149(1) [New Section 150(1)]. Therefore, this Court holds that Section 149(1) [now Section 150 (1)] imposes a duty on insurer to satisfy award passed against insured in respect of third party claims and that duty is not affected by deletion of proviso to Section 149 (4).

29. Section 149(5) mandates that any amount paid by the insurer to the third party over and above the amount payable by insurer to the insured under the policy, shall be recovered by the insurer from the insured. Now, by virtue of new Section 147(2), the Central Government is empowered to prescribe a base premium and liability of the insurer in respect of such premium for the insurance policy. Since the liability of the insurer in respect of third party insurance is sought to be limited, by virtue of notification by



C.M.A.Nos.554, 309, 569, 671 and 755 of 2025 and C.M.A.No.934 of 2024
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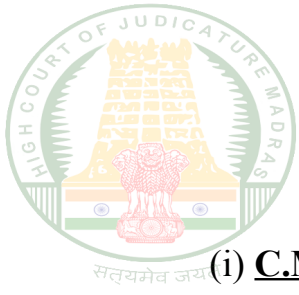
Government in consultation with Insurance Regulatory and Development

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Authority, Sub-Section 5 of old Section 149 is deleted to remove doubt. The deletion of Sub-Section 5 of old Section 149 is in tune with the amendment introduced under Section 147(2).

30. In view of the discussions made earlier, this Court holds that notwithstanding deletion of proviso to Sub-Section (4) of Old Section 149 and Sub-Section (5) of very same Section which is renumbered as Section 150, the insurer's liability to honour the award passed against the insured in respect of third party claims continues and in the event of insurer's success in raising a defence under Sub-Section (2) of New Section 150, the Tribunal can very well order pay and recovery.

31. In view of the conclusion reached by this Court in the common question of law taken up for consideration in these appeals, now this Court proceeds to dispose of the individual appeals as follows:-

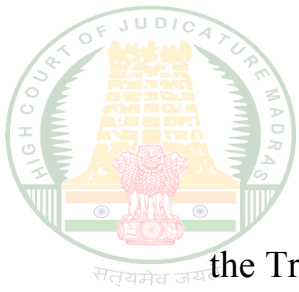


C.M.A.Nos.554, 309, 569, 671 and 755 of 2025 and C.M.A.No.934 of 2024
and C.M.P.Nos.4140, 2203, 5356 and 6099 of 2025 and C.M.P.No.8708 of 2024

(i) **C.M.A.No.554 of 2025:-**

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This civil miscellaneous appeal has been filed by the Insurance Company challenging the pay and recovery order passed by the Tribunal. It was found by the Tribunal that driver of the offending vehicle did not possess valid driving licence on the date of accident and in view of the said violation of policy condition, the Insurance Company had been directed to pay and recover from the owner. The said finding was opposed on the ground that accident had occurred subsequent to coming into force of Amending Act-2019 and deletion of proviso in Section 150(4) has not been considered by the Tribunal. In view of the conclusion reached by this Court on the question of law, the pay and recovery ordered by the Tribunal is affirmed. The Tribunal based on the evidence of PW.1 to PW.3 and contents of FIR-Ex.P1 came to the conclusion that accident had occurred due to the negligence on the part of the driver of offending vehicle and the same is based on proper appreciation of facts. Therefore, the said finding is affirmed. No other arguments were advanced regarding quantum, therefore, the Civil Miscellaneous Appeal is dismissed affirming the award passed by



C.M.A.Nos.554, 309, 569, 671 and 755 of 2025 and C.M.A.No.934 of 2024
and C.M.P.Nos.4140, 2203, 5356 and 6099 of 2025 and C.M.P.No.8708 of 2024

the Tribunal.

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(ii) **C.M.A.No.569 of 2025**:-

This civil miscellaneous appeal has been filed by the claimants challenging the exoneration of the Insurance Company on the ground that proviso to Section 149 (4) was omitted by Amending Act and therefore, pay and recovery cannot be ordered. In view of the conclusion reached by this Court on the question of law, the exoneration of Insurance Company is set aside and the 2nd respondent/Insurance Company is directed to deposit the entire award amount with liberty to recover the same from the 1st respondent/owner of the vehicle. On the question of quantum, it was argued by the learned counsel for the appellant-claimant that notional income of Rs.10,000/- fixed by the Tribunal was very much on lower side. Heard the learned counsel appearing for the 2nd respondent on the question of quantum. It was averred by the claimant in the claim petition that deceased was a Painter, earning Rs.30,000/- per month. However, there is no evidence to prove the avocation and income of the deceased. In any event,



C.M.A.Nos.554, 309, 569, 671 and 755 of 2025 and C.M.A.No.934 of 2024
and C.M.P.Nos.4140, 2203, 5356 and 6099 of 2025 and C.M.P.No.8708 of 2024

having regard to the date of accident (ie., 05.05.2022), this Court feels that

the notional income fixed by the Tribunal is very much on lower side.

Having regard to the date of accident and cost of living, this Court is inclined to fix Rs.18,000/- as the notional income. The Tribunal fixed the age of the deceased as 37 years based on Ex.P2-Post-mortem Certificate.

Therefore, the claimants are entitled to 40% enhancement towards future prospects. The applicable multiplier is 15. Hence, the loss of dependency is fixed at Rs.34,02,000/- (Rs.18,000 x 1.4 x 12 x 15 x 3/4). The amount awarded under the heads loss of estate, loss of consortium and funeral expenses are in accordance with the judgment of the Apex Court in ***National Insurance Company Limited vs. Pranay Sethi and others*** reported in ***(2017) 16 SCC 680*** and are affirmed. The claimants are entitled to total compensation of Rs.36,55,000/-. Hence, the Civil Miscellaneous Appeal is allowed. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.36,55,000/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of M.C.O.P.No.136 of 2022 on the file of the Motor Accident Claims Tribunal (Special District Court Deal With MCOP Cases



C.M.A.Nos.554, 309, 569, 671 and 755 of 2025 and C.M.A.No.934 of 2024
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No.I) Thiruvallur, after deducting the amount already deposited, if any, within a period of six weeks from the date of receipt of copy of this judgment with liberty to recovery the same from owner of the vehicle/1st respondent. The claimants are entitled get enhanced award amount in the same proportion as ordered by the Tribunal. The claimants 1, 4 and 5 are permitted to withdraw their share by making formal application before the Tribunal. The share of the minor claimants 2 and 3 shall be deposited in anyone of the Nationalized Banks under a Fixed Deposit Scheme for a period of three years which shall be renewed periodically until they attain majority. The 1st claimant, being the Natural Guardian of the minor claimants 2 and 3, is permitted to withdraw the interest accrued thereon once in three months and the same shall be used for the welfare of the minor claimants.

(iii) **C.M.A.No.671 of 2025:-**

This Civil Miscellaneous Appeal has been filed by the Insurance Company challenging the pay and recovery order passed by the Tribunal. In



C.M.A.Nos.554, 309, 569, 671 and 755 of 2025 and C.M.A.No.934 of 2024
and C.M.P.Nos.4140, 2203, 5356 and 6099 of 2025 and C.M.P.No.8708 of 2024

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view of the conclusion reached by this Court on the question of law, the pay and recovery order passed by the Tribunal is affirmed. The notional income of Rs.12,000/- per month fixed by the Tribunal is a conservative one. It was stated by the claimants in the claim petition that deceased was a farmer and was earning Rs.14,000/- per month. Having regard to the date of accident, the notional income of Rs.12,000/- fixed by the Tribunal is conservative one and no case is made out to interfere with the award. In these circumstances, the Civil Miscellaneous Appeal stands dismissed.

(iv) **C.M.A.No.309 of 2025**:-

This Civil Miscellaneous Appeal has been filed by the Insurance Company challenging the pay and recovery order passed by the Tribunal. In view of the conclusion reached by this Court on the question of law, the appellant-insurance company has not made out any case to interfere with the pay and recovery order passed by the Tribunal. Further, initially the Tribunal passed an order directing the Insurance Company to deposit the amount on behalf of the owner of the offending vehicle. Subsequently, on



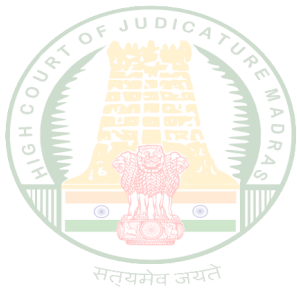
C.M.A.Nos.554, 309, 569, 671 and 755 of 2025 and C.M.A.No.934 of 2024
and C.M.P.Nos.4140, 2203, 5356 and 6099 of 2025 and C.M.P.No.8708 of 2024

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review application filed by the appellant herein in I.A.No.9 of 2024, the award was amended and appellant was permitted to recover the amount paid by it to the claimant from the owner of the vehicle. In these circumstances, the appellant is not entitled to turn around and say pay and recovery order should not have been passed against it. No other points have been raised on behalf of the appellant challenging the award. Therefore, the award passed by the Tribunal is affirmed and Civil Miscellaneous Appeal stands dismissed.

(v) C.M.A.No.934 of 2024:-

This Civil Miscellaneous Appeal has been filed by the Insurance Company challenging the pay and recovery order passed by the Tribunal. In view of the conclusion reached on the question of law, the pay and recovery order passed by the Tribunal is affirmed. The learned counsel for the appellant-insurance company has not raised any other points at the time of argument. Hence, the award passed by the Tribunal is affirmed and Civil Miscellaneous Appeal stands dismissed.



C.M.A.Nos.554, 309, 569, 671 and 755 of 2025 and C.M.A.No.934 of 2024
and C.M.P.Nos.4140, 2203, 5356 and 6099 of 2025 and C.M.P.No.8708 of 2024

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(vi) **C.M.A.No.755 of 2025:-**

This is the appeal filed by the Insurance Company challenging the pay and recovery order passed by the Tribunal. It was stated by the claimant in the claim petition that the deceased was a Car Driver, earning Rs.30,000/- per month. The Tribunal fixed notional income at only Rs.10,000/- for the accident that had occurred on 04.11.2022. Having regard to the date of accident and the cost of living, the amount of Rs.10,000/- fixed by the Tribunal is very conservative one. Therefore, there is nothing on record to interfere with the quantum of compensation arrived at by the Tribunal. No other serious points were raised at the time of arguments. Hence, the Civil Miscellaneous Appeal stands dismissed.

32. In Nutshell, the common question of law taken up for consideration is answered in affirmative and it is held that notwithstanding the deletion of proviso to Sub-Section 4 and Sub-Section 5 of old Section 149 of Motor Vehicles Act, 1988 by Amending Act 32 of 2019, the Motor



C.M.A.Nos.554, 309, 569, 671 and 755 of 2025 and C.M.A.No.934 of 2024
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Accident Claims Tribunal can pass orders for 'pay and recovery'.

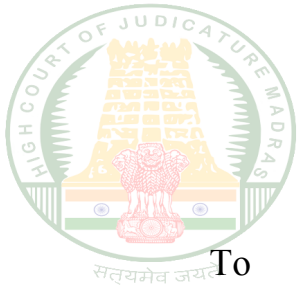
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33. In view of the answer to the common question of law, C.M.A.Nos.554, 671, 309 and 755 of 2025 and 934 of 2024 are dismissed and C.M.A.No.569 of 2025 is allowed and the award amount is enhanced to Rs.36,55,000/-. No Costs. Consequently, the connected civil miscellaneous petitions are closed.

16.04.2025
(1/2)

Index :Yes
Speaking order :Yes
Neutral Citation :Yes
dm

**Note: Registry is directed to issue order
copy along with entire cause title and prayer.**

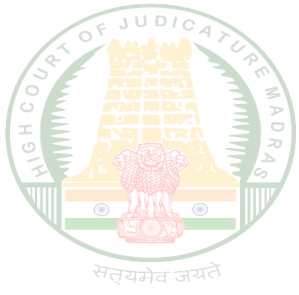


C.M.A.Nos.554, 309, 569, 671 and 755 of 2025 and C.M.A.No.934 of 2024
and C.M.P.Nos.4140, 2203, 5356 and 6099 of 2025 and C.M.P.No.8708 of 2024

To

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- 1.The Motor Accidents Claims Tribunal
(Special District Court), Villupuram.
- 2.The Motor Accident Claims Tribunal,
Special Subordinate Court, Erode.
- 3.The Motor Accident Claims Tribunal
(Special District Court Deal With MCOP Cases No.I)
Thiruvallur.
- 4.The Exclusive Motor Accident Claims Tribunal,
Kallakurichi.
- 5.The Motor Accident Claims Tribunal (Special District Court
for Motor Accident Claims Cases), Krishnagiri.
- 6.The Motor Accidents Claims Tribunal,
III Additional District Court, Villupuram @ Kallakurichi.
- 7.The Manager,
ICICI Lombard General Insurance Company Ltd.,
No.142, ECR Main Road,
(Near – Latha Street House),
Kottapalayam, Pudhucherry.
- 8.The Section Officer,
VR Section,
High Court, Madras.



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C.M.A.Nos.554, 309, 569, 671 and 755 of 2025 and C.M.A.No.934 of 2024
and C.M.P.Nos.4140, 2203, 5356 and 6099 of 2025 and C.M.P.No.8708 of 2024

S.SOUNTHAR, J.

dm

Pre-delivery Common Judgment made in
C.M.A.Nos.554, 309, 569, 671 and 755 of 2025
and C.M.A.No.934 of 2024

16.04.2025
(1/2)