



CMA.(MD)Nos.894 of 2012, 1416 to 1419 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved	09/10/2025
Date of Pronounced	28/11/2025

CORAM

The Hon'ble Ms.Justice **R.POORNIMA**

CMA(MD)Nos.894 of 2012, 1416 to 1419 of 2013
and
M.P(MD)Nos. 1, 1, 1 & 1 of 2013

(1)CMA(MD)No.894 of 2012:-

Anburaj Joeeph : Appellant/Petitioner

Vs.

1.Baskar

2.Royal Sundaram Alliance Insurance Company Ltd.,
through its Branch Manager,
3rd Floor, Subramanian Building,
No.1, Club House Road,
Chennai.

3.Anitha Suganya Mary

4.Kasthuri

5.The New India Assurance Company Ltd.,
through its Divisional Manager,
2nd Floor, Jeevan Deep Building,
No.8, Parliament Street,
New Delhi-110 001.

: Respondents/ Respondents

PRAYER:-Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award amount in MCOP No.123 of 2011 on the file of the Motor Accident Claims Tribunal,



CMA.(MD)Nos.894 of 2012, 1416 to 1419 of 2013

(Additional District Court/Fast Track Court No.2), Tirunelveli, dated 0310/2011.

For Appellant : Mr.T.Selvakumaran

For R1 and R3, R4 : No appearance

For 2nd Respondent : Mr.S.Srinivasa Raghavan

For 5th Respondent : Mr.J.S.Murali

(2)CMA(MD)No.1416 of 2013:-

Royal Sundaram Alliance Insurance Company Limited,
Through its Branch Manager,
Office at 3rd Floor,
Subramanian Building,
No.1, Club House Road,
Chennai-600 002.

: Appellant/2nd Respondent

Vs.

1.Jeyarani

2.Minor Jebastin

3.Minor Aalan

(Minor respondents 2 and 3 represented
through their Mother and next friend
1st respondent herein)

4.Amose

5.Vedamani

: Respondents 1 to 5/
Petitioners 1 to 5

6.Baskar

: 6th Respondent/
1st Respondent

7.Anitha Suganya Mary

8.Kasthuri

9.The New India Assurance Co. Ltd.,
Represented by its Regional Manager,
2nd Floor, Jeevan Dheep Building,
No.8, Parliament Street,
New Delhi.

: Respondents 7 to 9/
Respondents 3 to 5



CMA.(MD)Nos.894 of 2012, 1416 to 1419 of 2013

PRAYER:-Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 03/10/2021 made in MCOP No.121 of 2011 on the file of the Motor Accidents Claims Tribunal/Additional District Judge-cum-Fast Track Court II, Tirunelveli.

For Appellant : Mr.S.Srinivasa Raghavan
For R1 to R5 : Mr.T.Selvakumaran
For R6 and R7 : No appearance
For 9th Respondent : Mr.J.S.Murali

(3)CMA(MD)No.1417 of 2013:-

Royal Sundaram Alliance Insurance Company Limited,
Through its Branch Manager,
Office at 3rd Floor,
Subramanian Building,
No.1, Club House Road,
Chennai-600 002.

: Appellant/2nd Respondent

Vs.

1.Anitha Suganya Mary
2.Manickam
3.Kasthuri
4.Minor Davina Belssey
(4th Respondent represented
through her mother and next friend
1st respondent herein)
5.B.Baskar

: Respondents 1 to 4/
Petitioners 1 to 4

: 5th Respondent/R1



CMA.(MD)Nos.894 of 2012, 1416 to 1419 of 2013

PRAYER:-Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 03/10/2021 made in MCOP No.122 of 2011 on the file of the Motor Accidents Claims Tribunal/Additional District Judge-cum-Fast Track Court II, Tirunelveli.

For Appellant : Mr.S.Srinivasa Raghavan

For R1 to R4 : Mr.T.Selvakumaran

For 5th Respondent : No appearance

(4)CMA(MD)No.1418 of 2013:-

Royal Sundaram Alliance Insurance Company Limited,
Through its Branch Manager,
Office at 3rd Floor,
Subramanian Building,
No.1, Club House Road,
Chennai-600 002.

: Appellant/2nd Respondent

Vs.

1.Anburaj Joseph

: 1st Respondent/Petitioner

2.Baskar

: 2nd Respondent/1st Respondent

3.Anitha Suganya Mari

4.Kasthuri

5.The New India Assurance Co. Ltd.,
Represented by its Regional Manager,
2nd Floor, Jeevan Dheep Building,
No.8, Parliament Street,
New Delhi.

: Respondents 3 to 5/R3 to R5

PRAYER:-Civil Miscellaneous Appeal is filed under Section 173 of the



CMA.(MD)Nos.894 of 2012, 1416 to 1419 of 2013

Motor Vehicles Act, 1988, to set aside the judgment and decree dated 03/10/2021 made in MCOP No.123 of 2011 on the file of the Motor Accidents Claims Tribunal/Additional District Judge-cum-Fast Track Court II, Tirunelveli.

For Appellant : Mr.S.Srinivasa Raghavan

For 1st Respondent : Mr.T.Selvakumaran

For R2 and R3 : No appearance

For 4th Respondent : Dismissed,
(Vide Court order,
dated 04/07/2018)

For 5th Respondent : Mr.J.S.Murali

(5)CMA(MD)No.1419 of 2013:-

Royal Sundaram Alliance Insurance Company Limited,
Through its Branch Manager,
Office at 3rd Floor,
Subramanian Building,
No.1, Club House Road,
Chennai-600 002.

: Appellant/2nd Respondent

Vs.

1.Jebaraj : 1st Respondent/Petitioner
2.Baskar : 2nd Respondent/1st Respondent
3.Anitha Suganya Mari
4.Kasthuri
5.The New India Assurance Co. Ltd.,
Represented by its Regional Manager,
2nd Floor, Jeevan Dheep Building,
No.8, Parliament Street,
New Delhi. : Respondents 3 to 5/R3 to R5



CMA.(MD)Nos.894 of 2012, 1416 to 1419 of 2013

PRAYER:-Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 03/10/2021 made in MCOP No.125 of 2011 on the file of the Motor Accidents Claims Tribunal/Additional District Judge-cum-Fast Track Court II, Tirunelveli.

For Appellant : Mr.S.Srinivasa Raghavan

For 1st Respondent : Mr.T.Selvakumaran

For R2 and R3 : No appearance

For 4th Respondent : Dismissed,
(Vide Court order,
dated 04/07/2018)

For 5th Respondent : Mr.J.S.Murali

COMMON JUDGMENT

These Civil Miscellaneous Appeals arise out of the common award, dated 16/12/2010 passed in MCOP Nos.121, 122, 123 and 125 of 2011 by the Additional District and Sessions Judge (Fast Track Court II), Tirunelveli.

2.The brief case of the claimant are as follows:-

(i) On 24/10/2010, the deceased Jebaraj was driving a Maruthi Zen



Estilo Car No.TN-72-AE-0519 belonging to the David Ponraj (deceased) and was returning, from Thanjavur to Tirunelveli, after attending a marriage function. Though he was a permanent driver of Infant Jesus Engineering College, he was driving the Maruthi Zen with passengers, at the request of the owner, acting as a driver for two days remuneration. When the Car was nearing Madapuram, at that time a Scorpio Car No.TN-51-Q-0099 belonging to one Baskar, the first respondent driven by Andipillai, insured with second respondent carrying a Member of Parliament Mr.Manian came from the opposite direction i.e east to west. The vehicle was carrying party flag and shouting slogans was driven, rashly and negligently and came in a wrong direction. On noticing the approaching Scorpio vehicle, the driver of the Maruti Zen moved his vehicle to the extreme left side, however, the Scorpio Car which had occupied almost the entire road, collided with the Maruti Zen, thereby pushed back the Maruthi Zen 150 feet, as a result of which, it was extensively damaged beyond recognition. The driver of the Car and the passengers were trapped inside the vehicle and the driver namely, Jebaraj and the owner of the Car namely David Ponraj died on the spot itself, the remaining occupants sustained injuries.

(ii) Over the occurrence, a case in Crime No.310 of 2010 was registered by the Koradachery Police Station, against deceased Jebaraj



who is the driver of Maruthi Zen taking advantage of the situation and due to the extensive damage to the car and the passengers were not in a position to go to police. At that time, a person said to be the Personal Assistant of Honourable Member of Parliament, who was travelling in the Scorpio vehicle exerted influence. Without proper verification, the Koradachery police registered a case for the offences under Sections 279, 337, 338 and 304-A IPC against the driver of the Maruti car who had died in the accident.

(iii) The legal heirs of the deceased Jebaraj have filed a claim petition in MCOP No.121 of 2011 seeking compensation of Rs.10,00,000/-, for the death of the deceased Jebaraj (Driver of the Car) likewise, the legal heirs of the deceased David Ponraj (owner of the vehicle) filed a claim petition in MCOP No.122 of 2011 seeking Compensation of Rs.30,00,000/- for the death of the deceased David Ponraj. Anburaj Joseph one of injured in the same accident, filed a claim petition in MCOP No.123 of 2011 by seeking compensation of Rs.10,00,000/- for the injuries sustained by him in the accident and Jebaraj, S/o.Manickam who is also an injured has filed a claim petition in MCOP No.125 of 2011 seeking compensation of Rs.10,00,000/- for the injuries sustained by him.



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3.The second respondent namely the Royal Sundaram Alliance Insurance Company filed a counter disputing the manner of accident by stating that the accident occurred, due to the rash and negligent driving of the driver of the Maruti Zen as he alone, drove the car in a rash and negligent manner and caused the accident. Therefore, an FIR was filed against him under Ex.P1. Since the claim has been made by the tort-feaser himself not by a third party, he has no right to claim amount. The insured vehicle was driven slowly and in compliance with traffic rules. The driver of the Maruti Zen was the wrong doer. The legal heirs cannot claim any compensation for the own wrong. Therefore, the insurance company is not liable to pay compensation. The question of vicarious liability will not arise when a claim is made by tort-feasor. So, the Insurance Company as well as the owner of the Scorpio Car are not liable to pay any compensation to the claimants.

4. The 5th respondent New India Assurance Company filed a separate counter denying the entire allegations contained in the claim petitions. The accident took place solely due to the rash and negligent driving of the driver of Scorpio Car belonging to the first respondent, insured with the second respondent Insurance Company. The Scorpio car occupied the entire road, hit the Maruthi Zen which had occupied almost



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the entire road, collided with the Maruti Zen, thereby pushed back the Maruthi Zen 150 feet, as a result of which, it was extensively damaged beyond recognition. The driver of the Car and the passengers were trapped inside the vehicle. The driver namely, Jebaraj and the owner of the Car namely, David Ponraj, died on the spot itself, the remaining occupants sustained injuries. A false case has been foisted against the driver of the Maruti Zen, with influence by PA to MP. The police without verification of the truth, falsely registered FIR against the driver of the Maruti Zen. The first and second respondents are liable to pay compensation.

5. Before the Tribunal, on the side of the claimants, 5 witnesses were examined as PW1 to PW5 and 36 documents were marked as Exs.P1 to P36. On the side of the Insurance Company, no witness was examined, but two documents were marked as Exs.R1 and R2.

6. After considering the material evidence and records, the Tribunal has awarded compensation of Rs.9,90,000/- in respect of MCOP No.121 of 2011; Rs.15,40,000/- is awarded in respect of MCOP No.122 of 2011; Rs.2,97,000/- is awarded in respect of MCOP No.123 of 2011 and awarded a sum of Rs. 10,000/- in respect of MCOP No.125 of 2011

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together with interest at the rate of 8 % per annum and directed the second respondent Insurance Company to deposit the same within a period of two months before the Tribunal.

7. Being not satisfied with the compensation awarded by the Tribunal, the injured Anburaj Joseph has filed CMA(MD)No.894 of 2012 seeking enhancement of compensation, whereas challenging the common award of the Tribunal, three Civil Miscellaneous Appeal has been preferred by the Appellant Insurance Company challenging its liability by stating that the accident was stated to be head on collusion and the person against whom FIR was registered died in the accident and further stated that 50% contributory negligence should be fastened on the driver of the offending vehicle.

8. This court considered the rival submission of the learned counsel appearing on either side and perused the materials available on record.

9. Now, this Court has to decide the following point for consideration:-

(1) whether the common order passed by the



Tribunal is proper or liable to be set aside ?

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10. Point No.1:

On the side of the petitioner, one of the inmates who witnessed the occurrence was as examined as P.W.3 clearly stated that they were travelling in Maruthi zen car bearing Registration No.TN 72 AE 0519 proceeding from West to East towards Tirunelveli. When they were nearing Manappuram they noticed Scorpio bearing Registration No.TN 51 Q 0099 in which the Member of Parliament was travelling and his vehicle was followed by several cars raising slogans. Therefore, the driver of the Maruthi Zen drove the vehicle on the extreme left side, but the Scorpio car driver in a rash and negligent manner driven by its driver dashed against the Maruthi Zen. Due to the impact, both the driver and the owner of the Maruthi Zen died on the spot and other occupants also sustained injuries. Thereafter, they were taken to hospital by ambulance. PW4 another occupant also supported the version of PW3. Though the insurance company argued that since the FIR was filed only against the driver of the Maruthi Zen, he alone is liable for the accident, however, Ex.P1 was not given by the driver of the Scorpio vehicle, instead it was lodged by the Personal Assistant of the Member of Parliament who was travelling in that car.

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11. The MV report produced and marked as Ex.P7 reveals that the Maruthi Zen was extensively damaged on the front windscreen glass cracked, front bumper damaged, front both head light and indicator light broken, radiator, engine bonnet, radiator fan, water pump damaged, front right wheel fender damaged, driver door damaged and door glass broken, right side, second door damaged, door glass broken, top roof right side damaged, left side first door glass broken, dashboard damages, driver seat damaged and the accident was not due to mechanical fault. The MV report of the Scorpio vehicle shows that the damages was on the right front side but it was not extensive. As per Ex.P1-FIR, the Scorpio car was proceeding from West to East and the Maruti car was coming from East to West. But the rough sketch shows the scene of occurrence was not marked on either side. As per the insurance company of the Scorpio vehicle, the accident occurred due to the rash and negligent driving of the Maruti Zen driver. Ordinarily, the vehicle which was proceeding from East to West always need to drive on the left side i.e northern side of the road. Likewise a vehicle proceeding from West to East expected to be driven on its left side, namely on the the southern side of the road. Without admitting the fact and only for the sake of argument even if it is assumed that the Maruti Zen was driven in a rash and negligent manner



went to the wrong side of the road (as per version of FIR) and collided with the Scorpio vehicle, the accident occurred on the northern side of the road. The driver of the Scorpio vehicle was examined as RW1. He admitted during cross examination that the accident occurred only on the Southern side of the road which indicates that the Maruti Zen being driven on its correct side, whereas the Scorpio vehicle was being driven on the wrong side and thereby, caused the accident. The eyewitnesses PW3 and PW4 clearly stated that the Scorpio vehicle was driven by its driver in rash and negligence manner. Further, the complaint was not lodged by the driver of Scorpio vehicle, instead it was given by the Personal Assistant of Member of Parliament who was travelling in the Scorpio vehicle. But the complainant was not examined in the Tribunal and final report in the criminal case was also not filed.

12. Therefore, mere lodging of a complaint against the driver of Maruti Zen is not by itself proof that he was responsible for the accident. This Court taking into consideration of Ex.P1, the evidence of eye witnesses, PW3 and PW 4, the admission made by RW1, and the Motor Vehicle Inspection report comes to the conclusion that the driver of the Scorpio vehicle alone is responsible for the accident. The Tribunal concurred with this view, rightly held that the driver of the Scorpio



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vehicle was solely responsible for the accident. The finding of the Tribunal do not warrant any interference and hence, the argument advanced for fixing negligence or contributory negligence on the part of driver of the Maruti Zen driver deserve to be rejected.

13. CMA.(MD)No.1416 of 2013

As far as compensation awarded in MCOP.No.121 of 2011 is concerned, the appellant contended that the compensation ordered is on the higher side, and that 8% interest awarded by the Tribunal is on the higher side and pray to reduce the same to 6%. There is no statutory percentage of interest that applies uniform in all motor accident claim cases under Motor Vehicles Act. Anyhow this Court feels that 7.5% interest is moderate and the rate of interest reduced from 8% to 7.5%. The Tribunal awarded total compensation of Rs.9,90,000/- in the above case. In which this Court noted that the Tribunal fixed the monthly income at Rs.6,875/- taking into consideration of the avocation of the deceased and relying upon salary certificate issued by the employer which was produced under Ex.P34 which show that he was employed as driver in Infant Jesus College of Engineering which is proper. This Court finds that the same does not call for any interference.



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14. CMA.(MD)No.1417 of 2013

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As far as MCOP.No.122 of 2011, also they raised objections against the compensation awarded by the Tribunal is exorbitant amount without any basis and the interest awarded is on higher side. On careful perusal of records, this Court find that the deceased David Ponraj was working as a Accountant in Infant Jesus College. Ex.P14, the salary certificate issued by Infant Jesus College of Engineering and Technology dated 19.08.2010, shows that he was employed as an Accountant in that college. The Tribunal fixed the monthly salary of the deceased at Rs.11,000/- and calculated the compensation at Rs.15,40,000/-, which is proper. The interest was fixed at 8% is reduced to 7.5%, and except the above said modification, the award does not warrant any interfere

15. CMA.(MD)No.894 of 2012

So far as MCOP.No.123 of 2011 is concerned, the injured appellant filed an appeal in CMA.(MD)No.894 of 2012 with prayer to enhance the compensation by contending that the Tribunal ought to have granted two heads namely permanent disability as well as loss of income and the Tribunal ought to have granted Rs.1,16,000/- under the head of 58% disability, ought have granted Rs.1,00,000/- for pain and suffering, Rs.2,00,000/- for loss of amenities, Rs.20,000/- for transport and



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Rs.20,000/- under the head of extra nourishment.

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16.C.M.A(MD) No.1418 of 2013

The insurance company also filed an appeal in C.M.A(MD) No.1418 of 2013 contended that the award is highly excessive and the interest awarded is also on the higher side and requires reduction. The Tribunal relied upon Ex.P35 disability certificate, which reveals that the injured underwent, several surgeries viz., for the fracture on right arm bone near the shoulder, fracture upper end of the left thigh bone, there was a fracture in skull bone, left upper jaw bone, left collar bone, pain in the right shoulder, right arm, left shoulder and left arm, right hip knee weakness and restrictions of movements right shoulder, right arm, left shoulder and left arm, right hip knee. There is head ache and neck pain. Deformity right wrist. Not able to lift the right arm above the shoulder. 3 cm., shortening right thigh bone. Squatting and cross leg sitting are not possible and was assessed to have partial permanent disability of 58% .

17. P.W.6 Dr.Ram Guru, deposed that the fracture bones are joined. Pain in head and neck, deformity in right wrist, and injured, not able to lift the right arm above the shoulder, 3 cm., shortening right thigh bone, squatting and cross leg sitting are not possible. Considering the nature of



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injuries sustained by the injured, this Court is of the view that a sum of Rs.75,000/- awarded by the Tribunal is on the lower side, needs to be enhanced. Hence, this Court enhanced to Rs.1,16,000/- under the head of permanent disability as well as loss of income. All other heads, the Tribunal rightly awarded just compensation on all other heads which need no interference. Interest at 8% per annum, which is on the higher side. This Court reduce the same to 7.5% per annum,

18.CMA.(MD)No.1419 of 2013

As far as MCOP.No.125 of 2011 is concerned, the appellant objected the interest at the rate of 8% and the award amount is on the higher side. However, awarded only a sum of Rs.10,000/- as compensation, as there is no material to show that he was admitted into the hospital and treated for any serious injury based on Ex.P31. This Court find it is just compensation, but the interest alone reduced to 7.5% instead of 8% per annum.

19. This Court modified the rate of interest alone in all the insurance company appeals in CMA.(MD)Nos.1416 to 1419 of 2013 from 8% to 7.5% per annum and confirmed the order of the Tribunal in all aspects. The Point No.1 is answered accordingly.



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20. CMA.(MD)No.894 of 2012

In the result, the Civil Miscellaneous Appeal is allowed. The award passed by the Tribunal is enhanced and the 2nd respondent/ Insurance company is directed to pay a sum of Rs.3,38,000/- to the appellant / claimant along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit of the amount, less the amount if already deposited to the credit of M.C.O.P.No.123 of 2011 on the file of the Additional District Judge, FTC No.2, Motor Accident Claims Tribunal, Tirunelveli, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the appellant/claimant is permitted to withdraw the award amount, less the amount already withdrawn, if any, together with proportionate interest and costs, by filing an appropriate petition before the Tribunal. The appellant is directed to pay the appropriate Court fee for the enhanced award amount. No costs.

21. CMA.(MD)No.1416 of 2013

In the result, Civil Miscellaneous Appeal is partly allowed and the order 03.10.2011 made in M.C.O.P.No.121 of 2011 on the file of the Additional District Judge, FTC No.2, Motor Accident Claims Tribunal, 19/23



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Tirunelveli, is hereby confirmed. The appellant is directed to deposit the award amount with accrued interest at the rate of 7.5% per annum and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgment. No costs. Consequently, connected miscellaneous petition is closed.

22. CMA.(MD)No.1417 of 2013

In the result, Civil Miscellaneous Appeal is partly allowed and the order 03.10.2011 made in M.C.O.P.No.122 of 2011 on the file of the Additional District Judge, FTC No.2, Motor Accident Claims Tribunal, Tirunelveli, is hereby confirmed. The appellant is directed to deposit the award amount with accrued interest at the rate of 7.5% per annum and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgment. No costs. Consequently, connected miscellaneous petition is closed.

23. CMA.(MD)No.1418 of 2013

In the result, Civil Miscellaneous Appeal is partly allowed and the order 03.10.2011 made in M.C.O.P.No.123 of 2011 on the file of the Additional District Judge, FTC No.2, Motor Accident Claims Tribunal, Tirunelveli, is hereby confirmed. The interest alone is modified at the

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rate of 7.5% per annum. No costs. Consequently, connected miscellaneous petition is closed.

24. CMA.(MD)No.1419 of 2013

In the result, Civil Miscellaneous Appeal is partly allowed and the order 03.10.2011 made in M.C.O.P.No.125 of 2011 on the file of the Additional District Judge, FTC No.2, Motor Accident Claims Tribunal, Tirunelveli, is hereby confirmed. The appellant is directed to deposit the award amount with accrued interest at the rate of 7.5% per annum and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgment. No costs. Consequently, connected miscellaneous petition is closed.

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Index:Yes/No
Internet:Yes/No

er/rm



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To

1.The Additional District Judge,
FTC No.2,/ Motor Accident Claims Tribunal
Tirunelveli.

2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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R.POORNIMA, J

er/rm

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