



C.M.A(MD)Nos.39, 59 & 60 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 21.02.2025

Pronounced on : 27.03.2025

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**C.M.A.(MD)Nos.39, 59 & 60 of 2019
and
C.M.P(MD)Nos.473, 662 & 663 of 2019**

CMA(MD).No.39 of 2019

M/s.Royal Sundaram General Insurance Company Ltd.,
Door No.45, 46, White House Road,
Royapettai,
Chennai-14

Rep. By its Manager

... Appellant/ 2nd Respondent

Vs.

1. Kannaki ... 1st Respondent/claimant
2. Muruganantham ... 2nd Respondent/1st Respondent
3. M/s.United India Insurance Company Ltd.,
2nd Floor, Xavier Building,
Public Works Department Road,
Nagercoil Town,
Rep. By its Senior Divisional Manager

...3rd Respondent / 3rd Respondent



C.M.A(MD)Nos.39, 59 & 60 of 2019

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decretal order dated 24.04.2018 made in M.C.O.P.No.68 of 2013 on the file of Motor Accident Claims Tribunal Additional Subordinate Judge, Tenkasi and allow this Civil Miscellaneous Appeal.

CMA(MD).No.59 of 2019

M/s.Royal Sundaram General Insurance Company Ltd.,
Door No.45, 46, White House Road,
Royapettai,
Chennai-14

Rep. By its Manager

... Appellant/ 2nd Respondent

Vs.

1. Kannaki ... Respondents 1 & 2/claimants

2. Sudalaiammal

3. Muruganantham ... 3rd Respondent/1st Respondent

3. M/s.United India Insurance Company Ltd.,

2nd Floor, Xavier Building,

Public Works Department Road,

Nagercoil Town,

Rep. By its Senior Divisional Manager

...4th Respondent / 3rd Respondent



C.M.A(MD)Nos.39, 59 & 60 of 2019

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decreetal order dated 24.04.2018 made in M.C.O.P.No.69 of 2013 on the file of Motor Accident Claims Tribunal Additioal Sub Judge, Tenkasi and allow this Civil Miscellaneous Appeal.

CMA(MD).No.60 of 2019

M/s.Royal Sundaram General Insurance Company Ltd.,
Door No.45, 46, White House Road,
Royapettai,
Chennai-14

Rep. By its Manager

... Appellant/ 2nd Respondent

Vs.

1. Kannaki ... 1st Resondent/claimant
2. Muruganantham ... 2nd Respondent/1st Respodent
3. M/s.United India Insurance Company Ltd.,
2nd Floor, Xavier Building,
Public Works Department Road,
Nagercoil Town,
Rep. by its Senior Divisional Manager

...3rd Respondent / 3rd Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decreetal order dated 24.04.2018 made in M.C.O.P.No.70 of 2013 on the file of Motor



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Accident Claims Tribunal Additional Sub Judge, Tenkasi and allow this Civil Miscellaneous Appeal.

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In all cases

For Appellant : Mr.M.Jerin Mathew

For Respondents : Mr.C.Jawahar Ravindran – for R3

No Appearance – for R1 & R2

COMMON JUDGMENT

(Judgment of this Court was delivered by **R.POORNIMA, J.**)

The appellant / 2nd respondent / Insurance Company has filed these Civil Miscellaneous Appeals against the fair order and decretal order dated 24.04.2018 passed in M.C.O.P.Nos.68, 69 and 70 of 2013 by the Motor Accident Claims Tribunal, Additional Sub Judge, Tenkasi District.

2. Brief facts of the petitions filed by the claimants before the Tribunal are as follows:

(a) In M.C.O.P.No.68 of 2013, M.C.O.P No. 70 of 2013 filed by the claimant Mrs.Kannagi, mother of the deceased claiming



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compensation for the death of the Selvi and minor Gautamraj who died in a road accident on 26.02.2012. MCOP No.69 of 2013 was filed by the claimants Mrs.Kannagi, wife of Ammayappan, and Smt. Sudalaiammal, mother of the said Ammayappan claiming compensation for the death of the Ammaiappan who also died in the same accident.

(b) The claimants stated that on 26.02.2012 at 03.00 p.m., between Tenkasi to Tirunelveli Road, the above-mentioned three persons along with others travelled in a TATA Indica Car bearing registration No.TN 76 L 2902 from Tirunelveli to their native Melagaram. The said car was driven by its driver Balasubramanian at a moderate speed after observing the traffic rules. When the car was nearing Alangulam from the eastern to western side, a lorry bearing Registration No.TN 72 AY 3520 belonging to the first respondent, was driven by its driver Velmurugan in a rash and negligent manner and dashed against the TATA Indica Car. As a result, Ms.Selvi, her brother Gowthamraj, her father Ammayappan sustained head injuries and died on the spot.

(c) The accident occurred due to the rash and negligent driving of the driver of the first respondent. A complaint was lodged against the lorry driver bearing registration No.TN 72 AY 3520 and FIR was registered under Section 279, 338, 304(A) of IPC in Crime No.83 of



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2012 and the same is pending before the Judicial Magistrate Court,

Tenkasi.

(d) Selvi, the daughter of the petitioner was a graduate of B.A. English and Communication, she completed a Diploma in Computer Based Technology and obtained a certificate in NIT and she stood as a brilliant student in education and other curricular activities. She participated in competitions and won prizes. She was in good health and she was expected to live until the age of 90 years. She was employed in a private company and derived a sum of Rs.4,000/-per month. For the loss of estate, loss of happiness and loss of dependency, future income, for funeral expenditure the claimant sought a sum of Rs.85,91,000/- as compensation for her death.

(e) The deceased Ammaiappan was working as an Assistant Manager at Global Wind Power Limited, Chennai. In addition with he operated two cars for hire and earning a sum of Rs.45,000/- per month. As an ex-serviceman, he also received monthly pension of Rs.9,000/-. He was aged about 53 years old and he was good in health and had not died in the accident, he could have lived up to 90 years. The first petitioner is the wife of the deceased and the second petitioner is the mother of the deceased. Therefore, they claimed a sum of



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Rs.1,04,74,000/- towards compensation for his death.

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(f) Minor Gowthamraj, at the time of the accident, was studying in third standard at Mondicherry School. He participated in all competitions, he was a brilliant student and claimed a sum of Rs.83,75,000/-.towards compensation for his death.

(g) The claimants further stated that the lorry bearing Registration No.TN 72 AY 3520 belonged to the first respondent and was insured with the second respondent. The third respondent is the Insurance Company of the TATA Indica Car and the policy was in force. The respondent Nos.1 to 3 are jointly and severally liable to pay compensation to the claim petitioners.

3. The brief averments contained in the counter filed by the 3rd respondent in all claim petitions are as follows:

(a) Since the alleged accident occurred due to the rash and negligent act of the driver of the 1st respondent, this respondent is no way liable to pay any compensation to these claimants.

(b) The owner of vehicle bearing registration No. TN 76 L 2902 allowed deceased Balasubramanian to drive the car with eight persons as against its seating capacity i.e., Four plus one as per



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Registration Certificate of car as well as policy condition of this respondent at the time of accident. Hence this respondent is no way liable to pay any compensation to these claimants as per the averments contained the petitions.

(c) The age, income, educational qualifications of the deceased are denied. The claimant has prove above said averments through proper documentary evidence before Court of law.

4. The brief averments contained in the counter filed by the 2nd respondent in all claim petitions are as follows:

(a) That the insured / owner of the TATA Indica car allowed its driver to carry eight passengers on board against the seating capacity of four. Hence, the owner / Insured of the TATA Indica car violated the policy conditions of the Motor Vehicle Act. This respondent is not liable to pay any compensation to the claim petitioners.

(b) That the driver of the TATA Indica car drove the vehicle in the middle of the road, due to negligence on the part of the driver of the indica car when the accident occurred.

(c) That the rough sketch speaks about the nature of the accident and the driver of the mini lorry driven the lorry with care and



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WEB CO diligent manner by observing traffic rules, whereas the driver of the TATA Indica car drove the vehicle carrying more passengers against the allowed seating capacity, due to which the accident occurred.

(d) That the claim is highly excessive and arbitrary and the petitioners are not entitled to the same.

(e) That the respondent states that the rate of interest must be just and reasonable, taking into consideration all relevant factors, including inflation, change of economy, policy being adopted by the Reserve Bank of India.

(f) That the driver of the first respondent does not hold a valid driving license for a mini lorry bearing registration No.TN 72 AY 3520, at the time of the accident

(g) The petitioners are put to strict proof of deceased age, income and occupation with documentary evidence before the Court. The allegation that the deceased Selvi was employed as Data Entry Operator in LG Service Centre at Tirunelveli is denied. The allegation that the deceased Ammaiyappan, was employed as Assistant Manger in Wind Mill Company and maintaining two passenger cars and also Ex-service man and earning Rs.48,000/- per month. The petitioners are put to strict proof of the same. Hence, prayed for dismissal of these claim petitions.



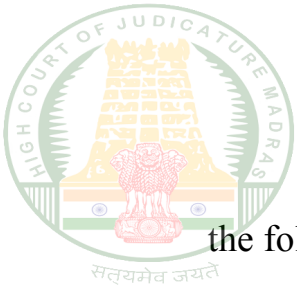
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5. The Tribunal conducted a joint trial by clubbing M.C.O.P.

Nos. 68 to 70 of 2013. On the side of the petitioners, P.W.1 and P.W.2 were examined and Exs.P1 to Exs.P12 were marked. On the side of the respondents, R.W.1 to R.W.3 were examined and Exs.R1 to Exs.R3, Ex.X1 to Ex.X3 were marked.

6. After hearing both sides, the trial Judge awarded a sum of Rs.6,00,000/- towards compensation for the claimant in M.C.O.P. No.68 of 2013 for the death of Selvi, and awarded a sum of Rs.43,00,600/- towards compensation for the claimants in M.C.O.P. No.69 of 2013 for the death of Ammaiyappan and awarded a sum of Rs.6,34,800/- towards compensation for the claimant in M.C.O.P. No.70 of 2013 for the death of Gowthamraj. The learned Judge directed the appellant / 2nd respondent Insurance Company to pay the entire award amount within two months.

7. Aggrieved by the said order, the Civil Miscellaneous Appeals in C.M.A. (MD) Nos. 39, 59 and 69 of 2019 have been filed by the Insurance Company / 2nd respondent before the lower Court in M.C.O.P. Nos.68 to 70 of 2013 against the negligence and quantum with



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the following among other grounds:

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(i) That the accident has occurred only due to the claimant's vehicle as it had been driven by its driver in the middle road without following the traffic rules.

(ii) That the quantum of compensation in all cases is excessive and arbitrary and the same is liable to be set aside.

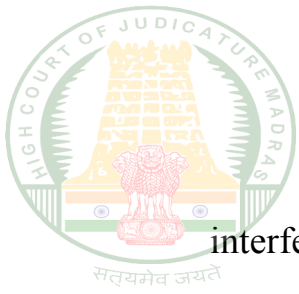
(iii) That the FIR clearly shows that nine members were travelling in the Tata Indica Car, it would be evidence from the RC book that the seating capacity of the car is only 5, which is in violation of the insurance policy.

(iv) That the Tribunal erred in fixing the salary of the deceased Selvi and 40% future prospectus without any proof.

(v) That the Tribunal fixed a sum of Rs.4,80,000/- to deceased Ammaiyappan and granting 15% of the future prospectus to the deceased without any permanent job.

Hence, prayed to set aside the judgment of the trial Court and allow these Civil Miscellaneous Appeals.

8. The learned counsel appearing for the respondents / claimants argued that the order of the claim Tribunal is proper and no



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interference required to modify the award. He further argued that the

insurance company did not prove that the policy condition was violated.

The claim Tribunal taking into consideration the entire facts, passed the order, on merit and prayed to dismiss these Civil Miscellaneous Appeals by confirming the order of the Tribunal.

9. Heard the learned counsel on either side and perused the material available on records.

10. Since the Civil Miscellaneous Appeals arising out of the judgment in M.C.O.P.Nos.68 to 70 of 2013, issues, facts, evidence and documents involved in these Civil Miscellaneous Appeals are the same, they are taken up for hearing together and are disposed of by this common judgment.

11. Now, this court has to decide the following points for consideration:

(1) whether the accident occurred due to the rash and negligent act of the 1st respondent's lorry driver or the driver of the Tata Indica Car ?



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(2) Whether the compensation awarded in MCOP.No.68

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(3) Whether the compensation awarded in MCOP.No.69

of 2013 by the Tribunal on the higher side?

(4) Whether the compensation awarded in MCOP.No.70

of 2013 by the Tribunal on the higher side?

(5) whether excess passengers were travelling in the car

by violating policy conditions ?

12. The petitioners before the claim Tribunal filed the following documents:

(i) Ex.P.1 is the First Information Report dated 26.02.2012 registered by the Alangulam Police Station against one Velmurugan, the driver of the 1st respondent vehicle for the offence under Sections 279, 338, 304(A) of IPC, in which the complainant named as Kalimuthu, S/o. Madasamy who was also one of the passenger of the TATA Indica car. According to the complaint, on 26.02.2012 early morning at about 6.15 a.m., he hired an Indica Car bearing registration No. TN 76 L 2902 to attend the baby-shower function at Tirunelveli. At around 10.30 a.m., he attended the function and then returned in the same car



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with his wife, daughter, son, his relatives Ammaiyappan, his daughter Selvi, his son Gowthamraj and one Arumugam. Thiru.Balasubramanian, was driving the car, nearing Vairam Weighing Bridge, on the route from Tirunelveli to Tenkasi was struck by a mini lorry bearing registration No.TN 72 AY 3520 that was being driven by its driver Velmurugan in a rash and negligent manner. He sustained injury to his right knee. One Guru S/o. Madasamy and Pechimuthu took them to Tirunelveli Government Hospital and admitted them for treatment, where he was informed that, except Minor Harish all the occupants died. Subsequently, Harish also died. He was examined by the police and recorded the statement.

(ii) Ex.P.2 is the postmortem certificate of Ammaiyappan issued by the Assistant Professor Department of Forensic Medicine, Toxicology, Tirunelveli. Ex.P.3 is the postmortem Certificate of Gowthamraj issued by the Selvamurugan Assistant Professor. Ex.P.4 is the postmortem report of Selvi dated : 27.02.2012 issued by the Assistant Professor Department of Forensic Medicine, Toxicology, Tirunelveli. Ex.P.5 is the Insurance Policy issued to the vehicle bearing registration no.TN 72 AY 3520 by the 2nd respondent and the duration of policy is



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from 21.01.2012 to 20.12.2013. Ex.P.6 is the Insurance Policy issued to

the deceased Ammaiyappan for his new Indica car (unregistered vehicle)

from 14.01.2011 to 13.01.2012. Ex.P.7 is the achievement profile of

minor Gowthamraj. Ex.P.8 is the Educational Certificates of deceased

Selvi. Ex.P.9 is the salary certificate and bank statement of the deceased

Ammaiyappan. Ex.P.10 is the bills showing the hire service details and

trip sheets of a car bearing Registration No.TN 76 J 4638. Ex.P.11 is the

hire service bills and receipts of the vehicle bearing registration no.

TN 76 L 2902 of deceased Ammaiyappan. Ex.P.12 is the Motor Vehicle

Inspection Report of Vehicles bearing registration nos. TN 76 L 2902 of

the Tata indica car and TN 72 AY 3520 of the mini lorry issued by the

Motor Vehicle Inspector, Tenkasi on 28.12.2012 he opined that the

accident happened not due to mechanical defect.

13. On the side of the respondents, the insurance policy of

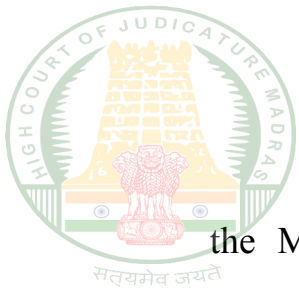
Tata Indica car was marked as Ex.R1 from the period 14.11.2011 to

midnight on 13.11.2012. Ex.R2 is the Lok Adalat award passed in

M.C.O.P. No.180 of 2012 for a sum of Rs.6,15,000/- Ex.R.3 is the also

Lok Adalat award passed in M.C.O.P No. 185 of 2012 for a sum of

Rs.1,00,000/-. Ex.X1 is the Salary slip of late. Ammaiyappan. Ex.X2 is



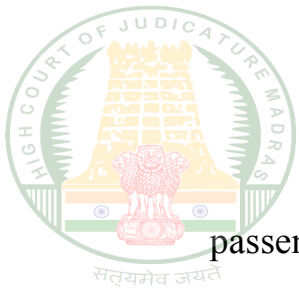
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the Motor Vehicle Inspection Report and Ex.X.3 is the registration certificate of vehicle bearing Registration No.TN 76 L 2902 (Indica Car).

14. The learned counsel for the appellant / 2nd respondent, the Insurance company argued that the accident had occurred only due to the claimant's vehicle as it had been driven in the middle of the road without following the traffic rules and he had not liable for the negligent act of the respondent driver.

15. The claimants produced Ex.P1, the FIR registered in Crime. No.83 of 2012 by the Alangulam Police Station against one Velmurugan. The complaint was filed by Thiru.Kalimuthu one of the co-passengers in the Indica car stating that the driver Velmurugan of a mini lorry bearing Registration No. TN 72 AY 3520 was driving the vehicle in reckless manner.

16. The driver of the 1st respondent was examined as R.W.3. During his chief examination he stated that at the time of the accident, the Indica car came behind a bus. The driver of the car tried to overtake the bus, collided with the mini lorry and caused the accident. Nine



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passengers were travelling in the said vehicle, at the time of accident, but a false case has been foisted against him. The driver of the Indica car was the sole reason for the accident.

17. During cross-examination, he admitted that he had not lodged any complaint against the driver of the Indica car. If the 1st respondent's vehicle had not been involved in the accident, the driver of the 1st respondent would have filed a complaint against the driver of the Indica car. No such complaint was filed. As per the counter, the driver of the Indica car was driving the vehicle in the middle of the road, but R.W. 3 did not disclose anything in his chief examination. But he stated a different version that, the Indica car tried to overtake a bus and hit his vehicle which is a new defence for which no evidence was produced. No sketch was produced on the side of the 1st respondent to prove the exact place of the accident.

18. Further, the Junior Assistant of the Regional Transport Office was examined as R.W.2. He stated that it revealed from the record that the 1st respondent driver hit the Indica car.



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19. Further, the Motor Vehicle Inspection report when

perused shows that extensive damages were incurred to the Indica car, namely, the steering column damaged, the front windscreen left broken, top of the roof damaged, front rear – left and right side – wheel arch damaged (door), Benet front should damaged, driver seat damaged. From the evidence and records it is proved that the driver of the 1st respondent vehicle was responsible for the negligence. The claim Tribunal holds the 1st respondent (driver) responsible for the accident. Since the 1st respondent had insured his vehicle with the 2nd respondent (Insurer), the 2nd respondent is liable to pay compensation. The appellant failed to prove the finding as false. We do not wish to interfere with the Tribunal's decision.

20. The learned counsel for the appellant, further argued that the income and future prospectus of the deceased Selvi and Ammaiappan were determined without proper documents. It reveals from the records that Ms. Selvi, at the time of death, she was aged about 25 years. The claimant stated that she derived a sum of Rs.4,000/- per month. The educational qualifications of the deceased Selvi is a graduate in B.A. Tamil and obtained Computer Diploma certificate. The Tribunal



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fixed the monthly income at Rs.4,000/- which is not exorbitant. As per the dictum of Hon'ble Supreme Court in ***Pranay Sethi's case*** if a person is self employed below 40 years of age 40% to be added as future prospectus. At the time of accident she was below 40 years and her future prospectus was fixed at 40% which is appropriate. According to the salary certificate of the deceased Ammaiyappan, he was employed as a Deputy Manager in the Global Wind Power Limited and earned a sum of Rs.4,80,000/- per annum. He was aged about 53 years. After verifying the salary certificate the Tribunal fixed 15% future prospectus which is proper. Further more the claim tribunal, determined the compensation for the claimant's deceased son in accordance with following the guidelines of the Hon'ble Apex court. There is no irregularity in the award passed by the Tribunal, we confirm the compensation fixed by the Tribunal.

21. However it is the further contention of the appellant that nine persons were travelling in the car at the time of the accident which is in violation of policy conditions and the 2nd respondent is not liable to pay compensation for the negligent act of deceased. He produced a judgment reported in the ***National Insurance Company Ltd., vs S.Chitra and others*** reported in ***2009 (1) TNMAC 411***, in which the Court has



held as follows:

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"13. We quote the following paragraphs in the case of the Managing Director, Tamil Nadu State Transport Corporation (Coimbatore Division-I) Ltd., Vs. Abdul Salam and others reported in 2003 (2) LW 75.

(10) We are concerned as to whether such action of the individuals is permissible under law. The motorcycle and any other two-wheelers are meant only for two persons, the rider and a pillion rider. If more than two persons are travelling on a motorcycle or any other two-wheeler, undoubtedly such action of the individual would become illegal and unauthorised. It is an awful sight when we come across three persons travelling on a motorcycle. They are sitting in such a cramped manner that the rider of the motorcycle almost sitting on the petrol tank or at the front edge of the seat. When he was sitting in such a position, naturally because of the restricted movement of his legs, he could not have complete control over the brake. The movements of his hands were also restricted. When that be so, this Court is of the opinion that definitely the rider of the two-wheeler cannot have full control over the vehicle.

(11) Apart from that, when three persons are travelling in a motorcycle, two as pillion riders, any unusual movement of the pillion riders would make



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the rider of the motorcycle to lost his control over the vehicle. Even though such travelling of three persons on a motorcycle is contrary to the statute, still the enforcement wing does not care to take note of the same and failed to take action against their illegal action. Virtually because of the failure on the part of the enforcement wing, such travelling of three persons on two-wheelers has become a regular sight. Even though highway patrolling is available but it is a rare sight to see a highway patrolling vehicle. Travelling of three persons has become rampant in the mofussils and in the city; especially among the youngsters like the college students. When that be the case, the enforcing authority is expected to enforce the statute with some strictness to avoid any untoward incident. There is no purpose in conducting Road Safety Week without infusing the road sense in compliance with the Rules and Regulations of the statute in the minds of those who are using the vehicles.

(12) When three persons travel in a motorcycle which is meant for two persons, this Court is of the view the conduct of the persons who travel in such manner are liable for contributory negligence; especially when their action is contrary to the statute. We fully share the views expressed above. The accident is that case In 1995. 14 years



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have passed. There is no improvement. In fact, we can seek 5 persons travelling on a two-wheeler with the child in front totally blocking the vision of his father who is driving. We can only shake our heads in despair. In that case, the Division Bench held that the responsibility of the deceased was 50%.

14. However we feel the degree of contributory negligence can be fixed at 20% on the part of the deceased. We appreciate the fairness with which the learned Counsel for the Insurance Company accepted that the percentage of negligence could be pegged down at 20% considering that the family is a young family which has lost its breadwinner. Therefore the contributory negligence is fixed at 20%.

22. In this connection, the learned counsel for the appellant referred the FIR registered by the complaint Thiru. Kalimuthu. In his complaint, he has clearly admitted that nine passengers were travelling in the TATA Indica Car at the time of the accident. Further, the Insurance Company produced Ex.R.1 insurance policy shows that the capacity of the vehicle is four members only and the owner of Indica car Thiru. Ammaiappan violated the policy condition by allowing more passengers in his car.



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23. The judgment relied upon by the learned counsel for the

appellant supra is squarely applicable to this case.

24. We agree with the argument advanced by the appellant,

that more passengers were indeed travelling in the vehicle than its original capacity which could have restricted the movement of the driver's legs. This may have affected his ability to fully control the brake.

The deceased Ammaiyappan, who was the owner of the car admitted nine passengers and violated the policy condition and this Court hold that he is also contributed for the negligence.

25. After considering the pathetic condition of the claimant

that she lost her entire family members viz., her husband (sole breadwinner of the family), daughter and son. We have decided to fix the contributory negligence at 20% on the part of the owner. Therefore, the contributory negligence is fixed at 20%. Point Nos.1 and 5 are answered accordingly.

26. There are no other serious lapses in the order passed by

the Tribunal. In other aspects, we do not wish to interfere with the order



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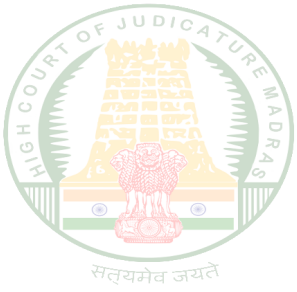
of the Tribunal.

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27. In M.C.O.P No. 68 of 2013 the Tribunal awarded a sum of Rs.6,00,000/- to the claimant and this Court deducted the contributory negligence is 20% of Rs.1,20,000/-. Therefore, in C.M.A. (MD) No. 39 of 2019 the claimant is entitled to a sum of Rs.4,80,000/-. Point No.2 is answered accordingly.

28. In M.C.O.P No. 69 of 2013 the Tribunal awarded a sum of Rs.43,00,600/- to the claimant and this Court deducted the contributory negligence is 20% of Rs.8,60,120/-. Therefore, in C.M.A. (MD) No. 59 of 2019 the claimant is entitled to a sum of Rs,34,40,480/-. Point No.3 is answered accordingly.

29. In M.C.O.P No. 70 of 2013 the Tribunal awarded a sum of Rs.6,34,800/- to the claimant and this Court deducted the contributory negligence is 20% of Rs.1,26,960/-. Therefore, in C.M.A. (MD) No. 60 of 2019 the claimant is entitled to a sum of Rs.5,07,840/-. Point No.4 is answered accordingly.



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30. Accordingly, these Civil Miscellaneous Appeals are

partly allowed, this Court deducted 20% for the contributory negligence and the appellant/ 2nd respondent is directed to pay the compensation amount after deduction of 20% to the Claimants.

31. C.M.A. (MD) No. 39 of 2019

In the result, the Civil Miscellaneous Appeal is partly allowed. The award passed by the trial Court is modified and the Appellant 2nd respondent Insurance Company is directed to pay a sum of Rs.4,80,000/- to the 1st respondent / 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.68 of 2013 on the file of the Additional Subordinate Court, Motor Accident Claims Tribunal, Tenkasi, within four weeks from the date of receipt of a copy of this order. On such deposit, the 1st respondent/claimant is entitled to withdraw the same, less the amount already withdrawn, if any, together with proportionate interest and costs, by filing an appropriate petition before the Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.



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32. C.M.A. (MD) No. 59 of 2019

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In the result, the Civil Miscellaneous Appeal is partly allowed. The award passed by the trial Court is modified and the Appellant / 2nd respondent Insurance Company is directed to pay a sum of Rs.34,40,480/- to the 1st and 2nd respondents / claimants 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.69 of 2013 on the file of the Additional Subordinate Court, Motor Accident Claims Tribunal, Tenkasi, within four weeks from the date of receipt of a copy of this order. On such deposit, the 1st respondent /1st claimant is entitled to a sum of Rs.28,00,000/- towards her share and the 2nd respondent / 2nd claimant is entitled to a sum of Rs.6,40,480/- towards her share and the claimants are permitted to withdraw their share, less the amount already withdrawn, if any, together with proportionate interest and costs, by filing an appropriate petition before the Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

33. C.M.A. (MD) No. 60 of 2019

In the result, the Civil Miscellaneous Appeal is partly



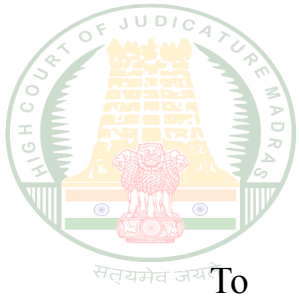
C.M.A(MD)Nos.39, 59 & 60 of 2019

allowed. The award passed by the trial Court is modified and the Appellant / 2nd respondent Insurance Company is directed to pay a sum of Rs.5,07,840/- to the 1st respondent / 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.70 of 2013 on the file of the Additional Subordinate Court, Motor Accident Claims Tribunal, Tenkasi, within four weeks from the date of receipt of a copy of this order. On such deposit, the first respondent/claimant is entitled to withdraw the same, less the amount already withdrawn, if any, together with proportionate interest and costs, by filing an appropriate petition before the Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

(G.J., J.) & (R.P., J.)
27.03.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No

GVN/RM



C.M.A(MD)Nos.39, 59 & 60 of 2019

To
WEB COPY

1.The Motor Accident Claims Tribunal
Additional Sub Judge,
Tenkasi,

Copy to

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



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C.M.A(MD)Nos.39, 59 & 60 of 2019

G.JAYACHANDRAN, J.
AND
R.POORNIMA, J.

gvn/RM

Common Judgment in
C.M.A.(MD)Nos.39, 59 & 60 of 2019

27.03.2025