

C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 13.02.2025

Pronounced on : 12.03.2025

CORAM:

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

**C.M.A.(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021**

&

**C.M.P.(MD)Nos.1117 to 1119, 10940 of 2019, 12470 of 2018, 2057,
2058 of 2020 & 668 of 2021**

C.M.A.(MD)No.97 of 2019

The Managing Director,

Tamil Nadu State Transport Corporation (Kum) Limited,

Kumbakonam.

... Appellant/ 1st Respondent

Vs.

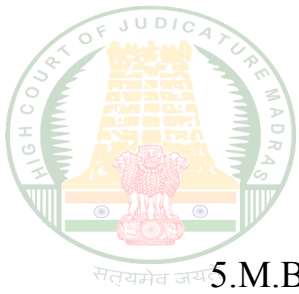
1.Kavitha

2.Suba

3.Vijaya Rekha

4.Akila

...Respondents 1 to 4 / Petitioners



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

5.M.Balaraman

...5th Respondent / 2nd Respondent

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6.The Branch Manager

United India Insurance Co. Ltd.,

Raja Annamalai Road,

Purasaiwalkam,

Chennai – 600 084.

Through its The Branch Manager

United India Insurance Co. Ltd.,

Railway Feeder Road,

Virudhunagar.

7.S.Sankaran

8.The Branch Manager

Reliance General Insurance Company Limited,

Sri Meenakshi Plaza, 1st Floor,

Plot No.HIG 55, 80 Feet Road,

Anna Nagar,

Madurai.

... Respondent No.5 to 8/Respondent No.2 to 5

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decreetal order dated 20.04.2017 made in M.C.O.P.No.80 of 2010 on the file of Motor Accident Claims Tribunal, Subordinate Court, Virudhunagar and allow



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

सत्यमेव जयते this Civil Miscellaneous Appeal.

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For Appellant : Mr.A.V.B.Krishnakanth

For Respondents : Mr.S.Pon Senthil Kumaran—for R1 to R4

Mr.N.Dilip Kumar

for Mr.G.Mohan Kumar – for R5

Mr.C.Jawahar Ravindran – for R6

Mr.V.Sakthivel – for R8

C.M.A.(MD)No.98 of 2019

The Managing Director,

Tamil Nadu State Transport Corporation (Kum) Limited,

Kumbakonam.

... Appellant/ 1st Respondent

Vs.

1.Somu

2.Indhrani

3.Gopinath

...Respondents 1 to 3 / Petitioners

4.M.Balaraman

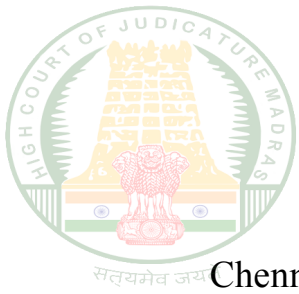
...4th Respondent / 2nd Respondent

5.The Branch Manager

United India Insurance Co. Ltd.,

Raja Annamalai Road,

Purasaiwalkam,



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

Chennai – 600 084.

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Through its The Branch Manager

United India Insurance Co. Ltd.,

Railway Feeder Road,

Virudhunagar.

6.S.Sankaran

7.The Branch Manager

Reliance General Insurance Company Limited,

Sri Meenakshi Plaza, 1st Floor,

Plot No.HIG 55, 80 Feet Road,

Anna Nagar,

Madurai.

... Respondent No.5 to 7/Respondent No.3 to 5

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decreetal order dated 20.04.2017 made in M.C.O.P.No.82 of 2010 on the file of Motor Accident Claims Tribunal, Subordinate Court, Virudhunagar and allow this Civil Miscellaneous Appeal.

For Appellant : Mr.A.V.B.Krishnakanth

For Respondents : Mr.S.Pon Senthil Kumaran—for R1 to R3

Mr.N.Dilip Kumar

for Mr.G.Mohan Kumar – for R4

Mr.C.Jawahar Ravindran – for R5

Mr.V.Sakthivel – for R7



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

WEB COPY **C.M.A.(MD)No.99 of 2019**

The Managing Director,
Tamil Nadu State Transport Corporation (Kum) Limited,
Kumbakonam. ... Appellant/ 1st Respondent

Vs.

1.Kavitha

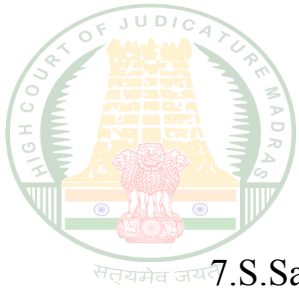
2.Suba

3.Vijaya Rekha

4.Akila ...Respondents 1 to 4 / Petitioners

5.M.Balaraman ...5th Respondent / 2nd Respondent

6.The Branch Manager
United India Insurance Co. Ltd.,
Raja Annamalai Road,
Purasaiwalkam,
Chennai – 600 084.
Through its The Branch Manager
United India Insurance Co. Ltd.,
Railway Feeder Road,
Virudhunagar.



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

7.S.Sankaran

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8.The Branch Manager

Reliance General Insurance Company Limited,

Sri Meenakshi Plaza, 1st Floor,

Plot No.HIG 55, 80 Feet Road,

Anna Nagar,

Madurai.

... Respondent No.5 to 8/Respondent No.2 to 5

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decreetal order dated 20.04.2017 made in M.C.O.P.No.83 of 2010 on the file of Motor Accident Claims Tribunal, Subordinate Court, Virudhunagar and allow this Civil Miscellaneous Appeal.

For Appellant : Mr.A.V.B.Krishnakanth

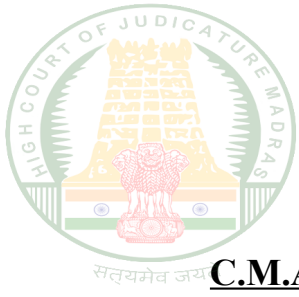
For Respondents : Mr.S.Pon Senthil Kumaran—for R1 to R4

Mr.N.Dilip Kumar

for Mr.G.Mohan Kumar – for R5

Mr.C.Jawahar Ravindran – for R6

Mr.V.Sakthivel – for R8



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

C.M.A.(MD)No.1204 of 2018

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The Managing Director,
Tamil Nadu State Transport Corporation (Kum) Limited,
Kumbakonam. ... Appellant/ 1st Respondent

Vs.

- 1.Kavitha
- 2.Suba
- 3.Vijaya Rekha
- 4.Akila ...Respondents 1 to 4 / Petitioners
- 5.M.Balaraman ...5th Respondent / 2nd Respondent
- 6.The Branch Manager
United India Insurance Co. Ltd.,
Raja Annamalai Road,
Purasaiwalkam,
Chennai – 600 084.
Through its The Branch Manager
United India Insurance Co. Ltd.,
Railway Feeder Road,
Virudhunagar.
- 7.Premkumar



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

8.S.Sankaran

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9.The Branch Manager

Reliance General Insurance Company Limited,

Sri Meenakshi Plaza, 1st Floor,

Plot No.HIG 55, 80 Feet Road,

Anna Nagar,

Madurai.

... Respondent No.6 to 9/Respondent No.3 to 6

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decreetal order dated 20.04.2017 made in M.C.O.P.No.81 of 2010 on the file of Motor Accident Claims Tribunal, Subordinate Court, Virudhunagar and allow this Civil Miscellaneous Appeal.

For Appellant : Mr.A.V.B.Krishnakanth

For Respondents : Mr.S.Pon Senthil Kumaran—for R1 to R4

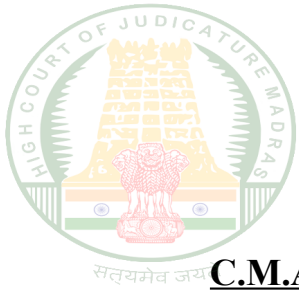
Mr.N.Dilip Kumar

for Mr.G.Mohan Kumar – for R5

Mr.C.Jawahar Ravindran – for R6

Mr.P.Samuel Gunasingh – for R7

Mr.V.Sakthivel – for R9



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

C.M.A.(MD)No.71 of 2021

WEB COPY

The Managing Director,

Tamil Nadu State Transport Corporation (Kum) Limited,

Kumbakonam.

... Appellant/ 2nd Respondent

Vs.

1.Nalini

2.K.Vaishnav

3.Minor.K.Vaibhav

(Minor is represented by his guardian mother
Nalini, 1st respondent herein.)

4.S.Kondurajan @ S.K.Rajan

5.Mangammal ...Respondents 1 to 5 / Petitioners

6.Saravanan ...6th Respondent / 1st Respondent

7.M.Balaraman

8.The Branch Manager

United India Insurance Co. Ltd.,

Raja Annamalai Road,

Purasaiwalkam,

Chennai – 600 084. ... Respondent No.7 & 8/Respondent No.3 & 4



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decretal order dated 17.06.2019 made in M.C.O.P.No.552 of 2011 on the file of Motor Accident Claims Tribunal, Principal District Court, Dindigul and allow this Civil Miscellaneous Appeal.

For Appellant : Mr.A.V.B.Krishnakanth

For Respondents : Mr.S.A.Ajmal Khan—for R1 to R7
Mr.B.Rajesh Saravanan – for R8

Cross.Obj(MD)No.5 of 2021

1.Nalini

2.K.Vaishnav

3.Minor.K.Vaibhav

(Minor is represented by his guardian mother
Nalini, 1st respondent herein.)

...Cross Objectors / Respondents 1 to 3

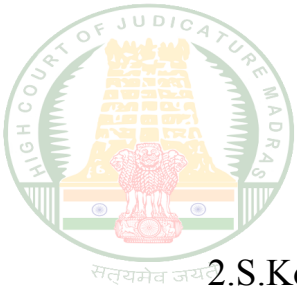
Vs.

1.The Managing Director,

Tamil Nadu State Transport Corporation (Kum) Limited,

Kumbakonam.

... 1st Respondent/Appellant



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

2.S.Kondurajan @ S.K.Rajan

3.Mangammal

4.Saravanan ...6th Respondent / 1st Respondent

5.M.Balaraman

6.The Branch Manager

United India Insurance Co. Ltd.,

Raja Annamalai Road,

Purasawalkam,

Chennai – 600 084. ... Respondents 5 & 6/Respondent No.4 to 6

PRAYER: Cross Objection filed under Section 173 of the Motor Vehicles Act, against the fair and decretal order dated 17.06.2019 made in MCOP No.552 of 2011 on the file of Motor Accident Claims Tribunal, Principal District Court, Dindigul.

For Cross Objectors : Mr.S.A.Ajmalkhan

For Respondents : Mr.A.V.B.Krishnakanth – for R1

Mr.B.Rajesh Saravanan – for R6



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

COMMON JUDGMENT

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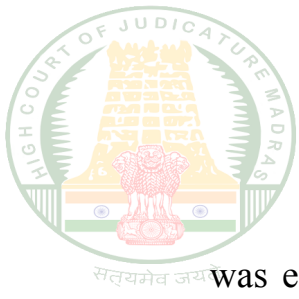
(Judgment of this Court was delivered by **R.POORNIMA, J.**)

The appellant / Transport Corporation has filed these Civil Miscellaneous Appeals in C.M.A.(MD)Nos.97 to 99 of 2019 and 1204 of 2018 against the fair order and decretal order dated 20.04.2017 made in M.C.O.P.Nos.80, 81, 82 and 83 of 2010 on the file of Motor Accident Claims Tribunal, Subordinate Court, Virudhunagar.

2. C.M.A.(MD)No.71 of 2021 has been filed against the fair order and decretal order dated 17.06.2019 passed in M.C.O.P.No.552 of 2011 by the Motor Accident Claims Tribunal, Principal District Court, Dindigul. The claimants in the said case have also filed a cross-objection.

3. Brief facts of the petition filed by the claimants in MCOP.No.81 of 2010 before the Tribunal are as follows: (In CMA. (MD)No.1204 of 2018)

(a) The deceased Lavanya was working as an Assistant System Engineer at Tata Consultancy Services Limited in Chennai. She



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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was earning a sum of Rs.50,000/- per month. She was about 26 years only at the time of the accident, was very young and energetic. Petitioners 1 to 4 had lost their beloved elder sister at such a young age. Due to the crucial accident, the future of the petitioners is put in the dark.

(b) On the fateful day of 20.10.2009 at about 8:40 AM when the deceased was travelling along with her parents in a Lancer Car bearing Registration No.TN-01-AC-0148, was proceeding from Trichy to Chennai, which was driven by its driver at a normal speed observing all the traffic rules and regulations of the road. While the vehicle was nearing, Ulundurpet diversion, at the time of the accident, a bus bearing Registration No.TN-63-N-1292 came from Subway to Main Road, it was driven by its driver in a rash and negligent manner and without noticing the oncoming vehicles from the main road and dashed the Lancer Car bearing Registration No.TN-01-A-0148 in which the deceased was travelling. Due to the crucial accident, the deceased sustained multiple grievous injuries all over the body and died on the spot.

(c) The marriage between the deceased and the fourth respondent was solemnized on 14.09.2009. However due to the cruel attitude of the fourth respondent, the deceased was not able to live with



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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the fourth respondent. The fourth respondent acted cruelly and drove away the deceased from his house. So the deceased was forced to live with her father and the marriage between the deceased and the fourth respondent has been irretrievably broken down. Hence the deceased executed a Will on 10.09.2009 in favour of her father to succeed all her estate and benefits. Further, the fourth respondent never cared about the deceased and never wanted to live with her. As per the Will and the dependency of the deceased, the petitioners are entitled to get compensation from the respondents.

(d) The deceased Lavanya was aged about 26 years at the time of the accident. She was young, energetic, and well-built in the prime of her youth. Had she survived the accident, She would have lived up to 100 years. She had a charming personality. She was working as an Assistant System Engineer in Chennai and getting a salary of Rs.50,000/- per month. Had the deceased survived the accident, then the deceased would surely have earned a monthly salary of Rs.1,00,000/-. She had no vices and she used to hand over her earnings to her parents, and it was spent towards the welfare of the petitioners by her parents. The petitioners are dependent on the income of the deceased, Lavanya. Lavanya showed much love and affection towards the petitioners, in turn the petitioners



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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were also showing love and affection to the deceased. Further, due to the sudden demise, the whole family is suffering not only from financial difficulties but also from several mental shocks and agony. The petitioners are unable to forget their elder sister's loss and used to wake up at night times and cry for their sister. The petitioners have been spending most of their days without taking any meals bearing reminded of their sister. The petitioners are dreaming about the prosperous future of their life. But due to the accident, the entire future of petitioners is put into the dark. Apart from the loss of income, the petitioner is undergoing immeasurable mental agony and worries. The death of Lavanya cannot compensated in terms of money but for filing of this petition, the petitioners estimated their loss of Rs.55 lakhs and came forward with this petition, praying for a grant of compensation.

3. Brief facts of the petition filed by the claimants in MCOP.No.80 of 2010 before the Tribunal are as follows: (In CMA(MD)No.97 of 2019)

(a) The deceased Saraswati was doing cotton textile business at Dindigul. She was earning a sum of Rs.6000/- per month. She was aged 60 years only. At the time of the accident, the deceased was hale



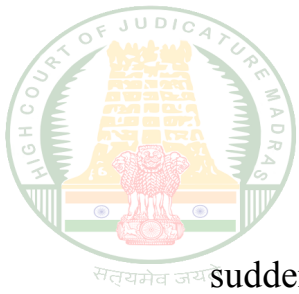
C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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and healthy. The petitioners 1 to 4 had lost their beloved mother. Due to the crucial accident, the future of the petitioners is put in dark

(b) On a fateful day of 20.10.2009 at about 8:40 AM when the deceased was travelling in a Lancer Car bearing Registration No.TN-01-AC-0148, it was proceeding from Trichy to Chennai. It was driven by its driver at a normal speed while observing all the traffic rules and regulations of the road. While the vehicle was nearing, Ulundurpet diversion, at that time of accident, a Bus bearing Registration No.TN-63-N-1292 came from Subway to Main Road, it was driven by its driver in a rash and negligent manner and without noticing the oncoming vehicles from the main road and dashed on Lancer Car bearing Registration No.TN - 01-A-0148, in which the deceased was travelling. Due to the crucial accident, the deceased sustained multiple grievous injuries all over the body and died on the spot.

(c) The deceased Saraswati was aged about 60 years at the time of the accident. Had she survived the accident she would have lived up to 100 years. She was doing cotton textile business. She was earning a sum of Rs.6000/- per month. The deceased Saraswati was bestowing much love and affection towards the petitioners, in turn, the petitioners were also showing love and affection with the deceased. Further, due to the



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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sudden demise, the whole family is suffering not only from financial difficulties but also from several mental shocks and agony. The petitioners are unable to forget their lost mother and used to wake up at night times and cry for their mother. The petitioners spend most of their days without taking any meals bearing reminded of their mother. But due to the accident, the future of the petitioners is put to darkness. Apart from the loss of income, the petitioners are undergoing immeasurable mental agony and worries. The death of Saraswathy cannot compensated in terms of money, but for the filing of this petition, the petitioners estimated their loss of Rs.10 lakhs and came forward with this petition praying for a grant of compensation

4. Brief facts of the petition filed by the claimants in MCOP.No.82 of 2010 before the Tribunal are as follows: (In CMA(MD)No.98 of 2019)

(a) The deceased Vishnuchakkaravarthy was doing Driver. He was earning a sum of Rs.3,200/- per month. He was aged about 25 years only. At the time of the accident, the deceased was hale and healthy. The petitioners 1 and 2 had lost their beloved son and the 3rd petitioner had lost his beloved brother. Due to the crucial accident, the future of the



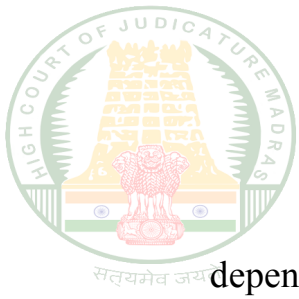
C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

petitioners is put in dark

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(b) On a fateful day of 20.10.2009 at about 8:40 AM when the deceased was driving a Lancer bearing Registration No.TN-01- AC-0148, was proceeding from Trichy to Chennai, which belongs to the second respondent and he drove it at a normal speed while observing all the traffic rules and regulations of the road. While the vehicle was nearing, Ulundurpet diversion, at that time of accident, a Bus bearing Registration No.TN-63 -N-1292 came from Subway to Main Road, it was driven by its driver in a rash and negligent manner and without noticing the oncoming vehicles from the main road and dashed on Lancer Car bearing Registration No.TN- 01-A-0148, which was driven by the deceased. Due to the crucial accident, the deceased sustained multiple grievous injuries all over the body and died on the spot.

(c) The deceased Vishnuchakkaravarthy was aged about 25 years at the time of the accident. Had he survived the accident he would have lived upto 100 years. He was working as a Driver and earning a sum of Rs.3,200/- per month. Had the deceased survived the accident, then the deceased would surely have earned a monthly salary of Rs.10,000/-. He had no vices and he used to hand over his earnings to his parents, and it was spent towards the welfare of the petitioners. The petitioners are



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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dependent on the income of the deceased, Vishnuchakkaravarthy. The deceased Vishnuchakkaravarthy was bestowing much love and affection towards the petitioners, in turn, the petitioners were also showing love and affection with the deceased. Further, due to the sudden demise, the whole family is suffering not only from financial difficulties but also from several mental shocks and agony. The petitioners are unable to forget their lost son. Due to the accident, the future of the petitioners is put to darkness. Apart from the loss of income, the petitioners are undergoing immeasurable mental agony and worries. The death of Vishnuchakkaravarthy cannot be compensated in terms of money, but for the filing of this petition, the petitioners estimated their loss of Rs.10 lakhs and came forward with this petition praying for a grant of compensation.

(d) A Criminal complaint has been lodged with the Ulundurpet Police Station in FIR No.534 of 2009 on the same day under Section 279, 304(A) IPC and it is pending before the Judicial Magistrate Court, Ulundurpet.

(e) The accident happened only due to the rash and negligent driving of the driver of the 1st respondent. The 1st respondent is liable to pay the compensation to the petitioners. The 2nd respondent is the owner



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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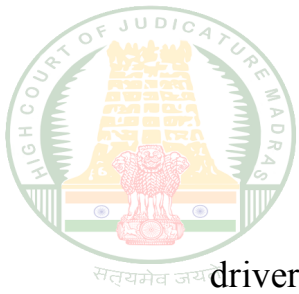
of the Lancer Car bearing Registration No.TN – 01–AC–0148. The 3rd respondent is the insurer of the second respondent. Respondents 2 and 3 are added as a formal party to decide these proceedings. Hence, all the respondents are jointly and severally liable to pay compensation to the petitioners.

(f) As per Section 140 of the Motor Vehicles Act, the respondents may be directed to pay a sum of Rs.50,000/- to the petitioners in the first instance on the principle of no-fault liability.

5. Brief facts of the petition filed by the claimants in MCOP.No.83 of 2010 before the Tribunal are as follows: (In CMA(MD)No.99 of 2019)

(a) The deceased Thangaraj was doing real estate business at Dindigul. He was earning a sum of Rs.10,200/- per month. He was aged about 70 years only. At the time of the accident, the deceased was hale and healthy. The petitioners 1 to 4 had lost their beloved father. Due to the crucial accident, the future of the petitioners is put in the dark.

(b) On a fateful day of 20.10.2009 at about 8.40 AM when the deceased was travelling in a Lancer Car bearing Registration No.TN–01–AC–0148, was proceeding from Trichy to Chennai, it was driven by its



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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driver at a normal speed observing all the traffic rules and regulations of the road. While the vehicle was nearing, Ulundurpet diversion, at that time of accident, a Bus bearing Registration No.TN-63 -N-1292 came from Subway to Main Road, it was driven by its driver in a rash and negligent manner and without noticing the oncoming vehicles from the main road and dashed on Lancer Car bearing Registration No.TN- 01-A-0148, in which the deceased was travelling. Due to the crucial accident, the deceased sustained multiple grievous injuries all over the body and died on the spot.

(c) The deceased Thangaraj was aged about 70 years at the time of the accident. Had he survived the accident he would have lived upto 100 years. He was doing real estate business and earning a sum of Rs.10,000/- per month. Had the deceased survived the accident, then the deceased would surely have earned a monthly salary of Rs.10,000/-. The deceased Thangaraj was bestowing much love and affection towards the petitioners, in turn, the petitioners were also showing love and affection with the deceased. Further, due to the sudden demise, the whole family is suffering not only from financial difficulties but also from several mental shocks and agony. The petitioners are unable to forget their lost father. Due to the accident, the future of the petitioners is put to



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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darkness. Apart from the loss of income, the petitioners are undergoing immeasurable mental agony and worries. The death of Thangaraj cannot compensated in terms of money, but for the filing of this petition, the petitioners estimated their loss of Rs.15 lakhs and came forward with this petition praying for a grant of compensation.

(d) A Criminal complaint has been lodged with the Ulundurpet Police Station in FIR No.534 of 2009 on the same day under Section 279, 304(A) IPC and it is pending before the Judicial Magistrate Court, Ulundurpet.

(e) The accident happened only due to the rash and negligent driving of the driver of the 1st respondent. The 1st respondent is liable to pay the compensation to the petitioners. The 2nd respondent is the owner of the Lancer Car bearing Registration No.TN – 01–AC–0148. The 3rd respondent is the insurer of the second respondent. Respondents 2 and 3 are added as a formal party to decide these proceedings. Hence, all the respondents are jointly and severally liable to pay compensation to the petitioners.

(f) As per Section 140 of the Motor Vehicles Act, the respondents may be directed to pay a sum of Rs.50,000/- to the petitioners in the first instance on the principle of no-fault liability.



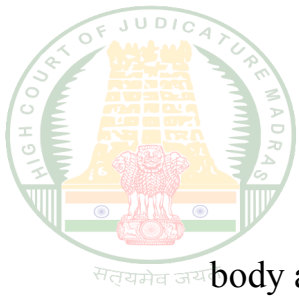
C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

6. Brief facts of the petition filed by the claimants in

MCOP.No.552 of 2011 before the Tribunal are as follows: (In
CMA(MD)No.71 of 2021)

(a) The deceased Kannan was an Ex-serviceman and drew a sum of Rs.4,500/- per month as pension. He also doing agriculturist and earns a sum of Rs.1,11,600/- per month. He was aged about 42 years only. At the time of the accident, the deceased was hale and healthy. The 1st petitioner is the wife, the petitioners 2 and 3 are the sons and the petitioners 4 and 5 are the parents of the deceased. Due to the crucial accident, the future of the petitioners is put in dark

(b) On 20.10.2009 at about 4.30 p.m., when the deceased Kannan was travelling in a Lancer Car bearing Registration No.TN-01-AC-0148, was proceeding from Trichy to Chennai, which was driven by its driver at a normal speed by observing traffic rules, while the vehicle was nearing, Ulundurpet diversion, at that time, a Bus bearing Registration No.TN-63-N-1292 came from Chennai to Trichy, it was driven by its driver in a rash and negligent manner and without noticing the oncoming vehicles from the main road dashed on Lancer Car bearing Registration No.TN-01-A-0148, in which the deceased was travelling. Due to the crucial accident, the deceased sustained multiple grievous injuries all over the



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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body and died on the spot.

(c) The deceased Kannan was aged about 42 years at the time of the accident. He was an ex-serviceman and drew a pension at Rs.4,500/- and as an Agriculturist earning a sum of Rs.1,11,600/- per month. The petitioners are dependent on the income of the deceased, Kannan. Further, due to the sudden demise, the whole family is suffering not only from financial difficulties but also from several mental shocks and agony. Due to the accident, the future of the petitioners is put to darkness. Apart from the loss of income, the petitioners are undergoing immeasurable mental agony and worries. The 1st respondent is the driver of the bus and the 2nd respondent is the owner. The 3rd respondent is the owner of the Car and the same is insured with the 4th respondent. The death of Kannan cannot be compensated in terms of money, but for the filing of this petition, the petitioners estimated their loss of Rs.50 lakhs and came forward with this petition praying for a grant of compensation.

7. Brief averments contained in the counter filed by the first respondent in M.C.O.P.Nos.80 to 83/2010 are as follows :

(a) The accident did not happen in the manner as set out in the petition.

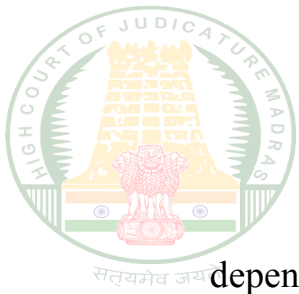


C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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(b) On 20.10.2009, the 1st Respondent's Bus bearing Registration No.TN-63-N-1292 driven by its driver with all care and caution was proceeding from Chennai to Trichy via Ulundurpettai from north to south. At about 08.40 hours, when the 1st Respondent's Bus driver was cautiously proceeding from National Highways to enter the service road towards Ulundurpettai Town on the right side, he used horns and switched on the headlights of the Bus and after adhering to the traffic signals while crossing the road, the front portion of the Bus entered the service road and while the rear portion of the Bus was on the process of entering the service road, all of a sudden a Lancer Car came from south to north from Trichy to Chennai in a break neck speed without caring for the traffic near the service road and without waiting for the Bus passing into the service road by slowing down the speed of the Car driven rashly which ended in the accident. The Police registered a criminal case against the Car driver Vishnuchakkaravarthy. The accident occurred due to the rashness and negligence of the Car driver and so the 1st Respondent is not liable to pay any compensation to the Claimants.

(c) The age, occupation and monthly income of the deceased in all the MCOPs are not admitted. The Claimants 1 to 4 in M.C.O.P. Nos.80/2010, 81/2010 and 83/2010 are married and they are not the



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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dependents on the income of the deceased and they lead an independent life with their Husbands at various places. The compensation amounts claimed are highly excessive and without any basis. The Petitions are liable to be dismissed with costs. Interest claim is very high and the petitioners are eligible to interest for 6% if any award is passed against this corporation.

8. Brief averments contained in the counter filed by the second respondent M.C.O.P. Nos.80 to 83/2010 are as follows :

(a) The Lancer Car bearing Registration No.TN-01 AC-0148 was purchased by the 2nd Respondent on 29.09.2006 under the Hire Purchase Agreement by availing loan from Syndicate Bank, Aminjikarai Branch, Chennai and was registered on 04.10.2006. The Lancer Car was insured with the United India Insurance Company from 04.10.2006 to 03.10.2007 and subsequently renewed periodically up to 03.10.2009. On 03.06.2009 the vehicle was sold to one Sankaran for Rs.3,05,000/- who executed a Delivery Note and took delivery of the vehicle on 03.06.2009 and assured that he is ready to bear the entire risk from the time and date of delivery. Hence, this Respondent is in no way connected with the Lancer Car TN-01 AC-0148 after 03.06.2009 and also on the date of the



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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accident. On 04.06.2009, the 2nd Respondent had also informed the Registering Authority, Regional Transport Office, Chennai Central Ayanavaram about the selling of the vehicle to Sankaran. The accident occurred only 4 months later to the transfer of ownership. Hence, the 2nd Respondent has no liability on the date of the accident. The 2nd Respondent is impleaded as a formal party only. The age, occupation and monthly income of the deceased in all the MCOPs are denied. The Petitions are liable to be dismissed with costs.

9. Brief averments contained in the counter filed by the 3rd in M.C.O.P. Nos.80 to 83/2010 are as follows :

(a) The entire accident happened as alleged by the Claimants by the negligence of the driver of the TNSTC Bus.

(b) The Bus driver drew the bus in a rash and negligent driving near Ulundurpet diversion without noticing the oncoming vehicle, suddenly crossed the main road and dashed against the Lancer car. So the 1st Respondent is only responsible for paying the compensation to the Claimants. The Lancer Car was not insured with the 3rd Respondent on the date of the accident on 20.10.2009. The 3rd Respondent had issued policy only for the period from 04.10.2008 to



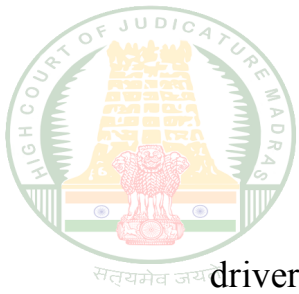
C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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03.10.2009. The Policy expired on 03.10.2009 itself and was not subsequently renewed. Since there is no insurance policy on the date of the accident, the 3rd Respondent is not liable to pay any compensation to the Claimants. The age, occupation and monthly income of the deceased in all the MCOPs are denied. The Petitions are liable to be dismissed with costs.

10. Brief averments contained in the counter filed by the 4th Respondent in M.C.O.P.Nos.80/2010, 82/2010, 83/2010 and the 5th Respondent in M.C.O.P. No. 81/2010 are as follows:-

The Lancer Car bearing Registration No.TN-01 AC-0148 was sold by the 4th Respondent in M.C.O.P.Nos.80/2010, 82/2010, 83/2010 and the 5th Respondent in M.C.O.P.No.81/2010 on 08.06.2009 to one Abdul Gafoor for Rs.3,70,000/- who executed a Delivery Note on the same date and took possession of the vehicle at his own risk on the same date. On the date of the accident, the said Abdul Gafoor is the absolute owner of the vehicle. This Respondent is not the owner of the vehicle on the date of the accident. The fact of the sale of the vehicle was also intimated to the prior owner Balaraman. The accident has occurred only due to the rash and negligent driving of the 1st Respondent's Bus



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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driver. This Respondent has been impleaded only as a formal party. So the Claim Petitions are liable to be dismissed with costs.

11. Brief averments contained in the counter filed by the 5th Respondent in M.C.O.P.Nos.80/2010, 82/2010, 83/2010 and the 6th Respondent in M.C.O.P. No. 81/2010 are as follows:-

There was no rashness or negligence on the part of the Car driver. While the Car was driven at a slow speed by observing all traffic rules, the 1st Respondent's Bus driver drove the Bus in a rash and negligent manner and dashed with the Car. So he is alone responsible for the accident. The Car owners and the Insurance Companies are only formal parties even as per the case of the Claimants. So this Respondent is not liable to pay any Compensation. There is no valid Insurance cover for the Car at the time of the accident with this Respondent. As per the policy, the insurance period commenced on 21.10.2009. But the accident took place on 20.10.2009. The age, occupation and monthly income of the deceased in all the MCOPs are denied. The amount of compensation claimed is highly excessive. The Petitions are liable to be dismissed with costs.



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

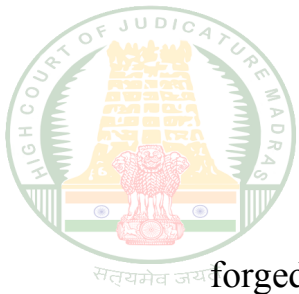
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12. Brief averments of the Counter filed by the 4th Respondent in M.C.O.P.No.81/2010 claiming Counter Claim are as follows:-

(a) It is true that on 20.10.2009 at about 08.40 a.m., the Wife of the 4th respondent namely, Lavanya, who was travelling along with her Parents in the Lancer Car TN-01 AC-0148 dashed against the 1st Respondent Bus bearing Registration No.TN-63 N-1292 coming in the opposite direction driven by its driver in a rash and negligent manner in which the deceased sustained multiple injuries and died on the spot.

(b) The Marriage between the 4th Respondent and the deceased took place on 14.09.2009 at Dindigul and the 4th Respondent and the deceased were living in Bangalore in the House of the 4th Respondent, though she was working in Chennai. The 4th Respondent alone is the legal heir of the deceased Lavanya as the legally wedded Husband. The Marriage between the 4th Respondent and the deceased never broke down and they were co-habiting till her death. There is no strained relationship between them.

(c) The allegations that the deceased executed a Will on 10.09.2009 in favour of her Father to succeed in connection with all her estates and benefits are false and the alleged Will dated 10.09.2009 is a



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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forged document. The 4th Respondent alone performed the last rites of the deceased as per their customs. The 4th Respondent issued legal notice to the Claimants on 24.05.2010. Though they received it, they did not reply. The Tashildar, Madurai South issued the Legal Heir Certificate to the 4th Respondent for the deceased Lavanya. The 1st Claimant is permanently residing at Trichy. The 2nd Claimant has completed M.B.B.S. and after her marriage is permanently living with her Husband in Bangalore. The 3rd Claimant is a B.E. Decree-holder and after her marriage, she is also residing in Bangalore. The 4th Claimant is a Doctor and her Husband is also a Doctor and both are serving in the U.K. They are not entitled to seek compensation for the death of the deceased Lavanya. The deceased Lavanya was 26 years old completed her B.Tech Degree and was working as an Assistant System Engineer in TCS, Chennai and was drawing a sum of Rs.43,572/- per month as salary as well as other allowances. Due to the sudden demise of the Deceased Lavanya, the 4th Respondent has lost the consortium, love affection and earnings of the deceased. So he claims the compensation amount of Rs.65,00,000/- for the death of his Wife Lavanya. The accident occurred due to the negligence of the 1st respondent's Bus driver. However, all the respondents are liable to pay compensation to this Respondent.



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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13. Before the Tribunal during joint trial with M.C.O.P. Nos.80 to 83 of 2010, on the side of the petitioners, PW1 to P.W.7 were examined and Exs.P1 to Exs.P19 were marked. On the side of the respondents, RW1 to R.W.6 were examined and Exs.R1 to Exs.R.11 were marked in M.C.O.P.Nos.80 to 83 of 2010.

14. In M.C.O.P.No.552 of 2011, on the side of the petitioners, PW1 and P.W.2 were examined and Exs.P1 to Exs.P23 were marked. On the side of the respondents, RW1 and R.W.2 were examined and Exs.R1 to Exs.R.5 were marked.

15. After hearing both sides, the trial Judge awarded a sum of Rs.7,60,000/- towards compensation for the claimants in M.C.O.P. No.552 of 2011. A sum of Rs.6,68,000/- towards compensation for the claimants in M.C.O.P.No.80 of 2010. A sum of Rs.77,64,439/- towards compensation for the claimants and 4th respondent in M.C.O.P.No.81 of 2010. A sum of Rs.12,97,000/- towards compensation for the claimants in M.C.O.P.No.82 of 2010. A sum of Rs.6,95,000/- towards compensation for the claimants in M.C.O.P.No.83 of 2010. The learned Judge directed the appellant/ Transport Corporation to pay the entire award amount



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

within two months.

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16. Aggrieved by the said order, the Civil Miscellaneous Appeals in C.M.A.(MD)Nos.97 to 99 of, 1204 of 2018 and 71 of 2021 have been filed by the Transport Corporation Company who is the 1st respondent before the lower Court in MCOP.Nos.80 to 83 of 2010 and 2nd respondent in M.C.O.P.No.552 of 2011 against the negligence and quantum with the following among other grounds :

(i) That the judgment of the Tribunal is contrary to law, weight of evidence and probabilities of the case.

(ii) That the Tribunal failed to note that the accident had occurred only due to the negligence of the driver of the Car bearing Registration No.TN-01-AC-0148 who drove the same in a rash and negligent manner and dashed against the rear portion of the bus and therefore, the driver of the Appellant cannot be held responsible for the accident.

(iii) That the Tribunal failed to note that the driver of the Appellant's bus, after giving proper signals and confirming that there was no vehicle movement on the other side of the road, entered the Ulundurpet service road from the highway and it was only the driver of the car who did not notice the Appellant's bus entering into the service



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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road, came from north to south in a rash and negligent manner and dashed against the rear portion of the bus.

(iv) That the Tribunal failed to appreciate that the mere fact that the car had dashed on the rear portion of the bus itself would prove that the bus had already entered into the service road after taking a turn from the highway and it was only the car driver who failed to notice the bus and invited the accident.

(v) That the Tribunal failed to appreciate that the FIR was registered only against the driver of the car in which the manner of the accident was categorically mentioned. Even the Tribunal itself has found that the major portion of the bus had turned and entered into the service road and therefore, the Tribunal's conclusions that the driver of the bus alone was responsible for the accident is nothing but self-contradictory.

(vi) It is well-settled law that the entire burden of proof lies only on the claimants to prove the factum of accident and negligence particularly in a claim under section 166 of the M.V. Act. In the present case, the claimants have failed to discharge their burden of proving their allegations of negligence against the bus driver by adducing substantial oral or documentary evidence, hence the Tribunal ought not to have held that the driver of the bus alone was responsible for the accident.



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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(vii) That the Tribunal erred in awarding a sum of Rs.2,43,000/- towards loss of earnings in the absence of any substantial oral or documentary evidence either to prove the avocation or income of the deceased.

(viii) That the Tribunal failed to note that the claimants are married daughters of the deceased and they were not dependants of the deceased. It is settled law that the non-dependant claimants are entitled only to the loss of estate i.e., the award that can be passed towards "No Fault Liability" as per the law laid down by the Hon'ble Apex Court in Manjuri Bera's case 2007 (1) TNMAC 385.

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

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

17. Aggrieved with the impugned award passed in MCOP.No.552 of 2011, the respondents 1 to 3/ petitioners 1 to 3 have come out with the cross objection in Cros.Obj(MD)No.5 of 2021 for enhancement of compensation on the following grounds :

(1) That the judgment of the Tribunal is manifestly erroneous



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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contrary to law, the weight of evidence and against the probabilities of the case in so far as against the disallowed portion of compensation.

2. That the income of the deceased as pleaded in the claim petition is Rs.4,500/- for pension and agriculture activities earned Rs.1,11,600/- per month. But the Tribunal had arbitrarily concluded the income of the deceased as Rs.4,600/-per month. In this regard, the Hon'ble Apex Court had rendered a judgment that even a normal man could able to earn a sum of Rs.6,500/- per month. However, the Tribunal did not consider the deceased agricultural activities earnings.

3. While fixing the income, the Tribunal failed to fix the future prospects of the deceased. The deceased was only aged about 42 years at the time of the accident, considering the same the Tribunal below ought to have taken 50% of the income as future prospects.

4. That the compensation awarded by the Tribunal under the head love and affection for a sum of Rs.50,000/- is very meagre and under the head transportation for a sum of Rs.10,000/- is very meagre and the same has to be enhanced.

5. That the Tribunal failed to consider that the dependents are five family members and as the entire family was dependent on the deceased, the formula for the loss of dependency taken by the Tribunal may be



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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6. That the Tribunal failed to consider the age of the deceased and the multiplier method taken for the consideration is not proper.

7. That the Tribunal failed to award the other heads the compensation in the claim petition and that may be enhanced.

8. That the Tribunal failed to consider that the deceased was an Ex-Serviceman and received the pension. To that effect, the claimants produced the statement of Account, PAN card, and Bank passbook as Exs.P15 to Exs.P17, Ex.P19, Ex.P20, Ex.P22, Ex.P23 and substantiated their claim.

9. That the Tribunal failed to consider the claimant's side Sales Deed in Exs.P8 to Exs.P14, it has elucidated the deceased agricultural income.

10. The compensation granted under the other heads is very meagre and the same is liable to be enhanced.

Therefore, they prayed to enhance the award amount by modifying the order of the trial Court.

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



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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19. Since the Civil Miscellaneous Appeals arising out of the judgment in M.C.O.P.Nos.80 to 83 of 2010 and 552 of 2011, issues, facts, evidence and documents involved in these Civil Miscellaneous Appeals are same, they are taken up for hearing together and are disposed of by this common judgment.

20. 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 (Transport Corporation) bus driver or the driver of the Lancer car was driven the vehicle in a rash and negligent manner and caused the accident ?
- (2) Whether the compensation awarded in MCOP.No. 80 of 2010 by the Tribunal is on the higher side?
- (3) Whether the compensation awarded in MCOP.No. 81 of 2010 by the Tribunal on the higher side?
- (4) Whether the compensation awarded in MCOP.No. 82 of 2010 by the Tribunal on the higher side?



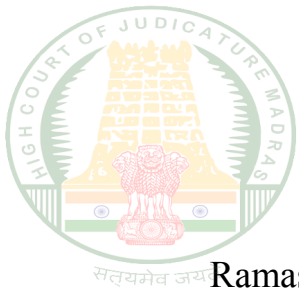
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C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

- (5) Whether the compensation awarded in MCOP.No. 83 of 2010 by the Tribunal is on the higher side?
- (6) Whether the compensation awarded in MCOP.No. 552 of 2011 by the Tribunal on the higher side?
- (7) Whether the claimants in MCOP.No.552 of 2011 are entitled to enhanced compensation?

21. Exhibit P1 is the FIR registered in Crime No.534 of 2009 dated 20.10.2009 before the Ulundurpet Police Station lodged against the driver Thiru.Vishnuchakkaravarthy of Lancer Car bearing Registration No.TN-01-AC- 0148 filed by Saravanan, driver of Bus bearing Registration No.TN 63 N 1292 belongs to the first respondent Transport Corporation. The contents of the FIR shows that around 4.30 a.m. On 20.10.2009 the complainant drove the vehicle from Chennai to Trichy. After crossing the tollgate at around 5.40 a.m., he turned the bus from by-pass Road to enter Ulundurpet town. A Lancer Car with Registration No.TN-01-AC-0148 coming from Trichy was also proceeded to Chennai from Trichy the driver of the vehicle drove the vehicle in a rash and negligent manner, and without controlling the speed dashed against the Bus, as a result of which, Kannan, son of Kondal Raj, Thangaraj, son of

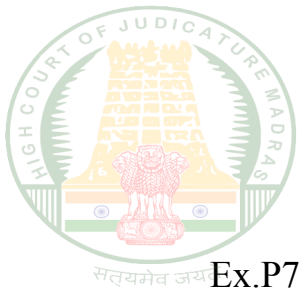


C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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Ramasamy, Saraswathi, wife of Thangaraj, Lavanya, wife of Premkumar, Vishnu Chakravarthy, son of Kumar sustained injuries and died. Both the car and bus were damaged. The dead bodies of the above persons were kept in Government Hospital. Nobody sustained injury on the bus.

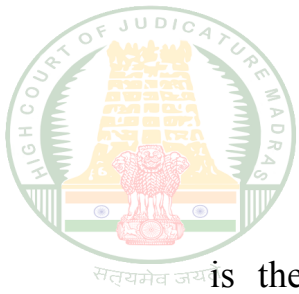
22. Ex.P2 is the postmortem certificate of the deceased Vishnuchakkaravarthy issued by the Assistant Surgeon, Government Hospital, Ulundurpet. The cause of death was mentioned that he would have appear to died due to injury and shock. Ex.P3 is the legal heirship certificate showing that Somu, father and Indurani, mother, were the legal heirs of deceased Vishnuchakkaravarthy (claimants in MCOP.No.82 of 2010). Ex.P4 is the driving license issued to Vishnuchakkaravarthy, which states that the driving license is valid up to 18.05.2011 which means, on the date of the accident he had valid driving license. Ex.P5 is the Postmortem certificate of deceased Thangaraj, issued by the Assistant Surgeon, Government Hospital, Villupuram. The cause of death shows that the deceased appears to have died of injury, shock and haemorrhage. Ex.P6 is the Postmortem certificate of Tmt. Saraswati, aged about 60 years, issued by the Assistant Surgeon, Government Hospital, Villupuram. The cause of death shows that death occurred due to shock.



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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Ex.P7 is the postmortem certificate of deceased Lavanya, aged about 25 years, issued by the Assistant Surgeon, Government Hospital, Villupuram. The cause of death is due to head injury facial injury and shock. Ex.P8 series is the legal heir certificate issued by the Tahsildar, Dindigul, showing that the claimants in MCOP.Nos.80, 81 and 83 of 2010 along with the deceased Saraswati and deceased, Lavanya are the legal heirs of the late Thangaraj. In Ex.P8 another legal heirship certificate dated 26.10.2009 issued by the Tahsildar, Dindigul shows that the claimants in MCOP.Nos.80, 81 and 83 of 2010 along with deceased Thangaraj and deceased Lavanya are the legal heirs of deceased Saraswathi. Ex.P9 is the Bank passbook of Thiru. Ram Kishore Babu. Ex.P12 is the copy of the joining letter issued to deceased Lavanya dated 17.11.2005 by her employer. Ex.P13 is the certificate issued by Tata Consultancy Service with the annual salary details of the deceased Lavanya. Ex.P14 is the inquest report of the deceased Lavanya. Ex.P16 is the rough sketch of the accident. Ex.P17 is the letter dated 1.7.2009 issued by the Manager of Indian Bank to the claimant's counsel regarding the savings bank account details of Thiru Ram Kishore Babu. Ex.R1 is the copy of the insurance policy for the Lancer Car bearing Registration No.TN-01-AC-0148 issued in the name of the second respondent. Ex.R2



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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is the copy of the account statement of the second respondent in Syndicate Bank, Chennai. Ex.R.3 is the delivery note dated 03.06.2009 issued by the fourth respondent Shankar to the 2nd respondent Balaraman. Ex.R4 is the letter sent by the 2nd respondent to the Regional Transport Office, Chennai stating that he had sold the vehicle to Shankar, Ashok Nagar, Chennai. Ex.R5 is the copy of the certificate of posting filed by the 2nd respondent. Ex.R6 is the insurance policy package for Lancer Car bearing Registration No.TN-01-AC-0148. Ex.R7 is the Investigating Report issued by the Investigator to the Divisional Manager, United India Insurance Company, Chennai. Ex.R8 is the insurance policy for the Lancer car bearing Registration No.TN-01-AC-0148 for the period from 21.10.2009 to 20.10.2010. Ex.R9 is the legal heir certificate issued by the Tahsildar, Madurai South, to deceased Lavanya showing that her husband Prem Kumar, is the only legal heir of late.Lavanya. Ex.R10 is the delivery note issued by Abdul Cafoor to the 4th respondent, Sankaran. Ex.R11 is the copy of the impleading petition filed by the 4th respondent to implead Abdul Cafoor as a party to the claim petition. (some of the other documents are not relevant to the case and hence, this Court not mention the details of the other documents.)



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C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

23. Point No.1 : “Negligence”

To decide the negligence, we carefully scrutinized the records. As per the claimants, in all the claim petition the negligence is on the part of the driver of the Appellant /1st respondent Transport Corporation.

24. The learned counsel appearing for the appellant Transport Corporation vehemently argued that the Tribunal failed note that the appellant bus, after giving proper signals and confirming that there was no vehicle movement on the other side of the road, entered the Ulundurpet service Road from the highway, and it was only the driver of the car who did not notice the appellant's bus entering into service road came from North to South in a rash and negligent manner and dashed against the rear portion of the bus.

25. The learned counsel further argued that the car dashed on the rear portion of the bus itself clearly shows that the bus had already entered into service Road after taking a turn from the highway and it was only the car driver who failed to notice the bus and invited the accident. The FIR was registered only against the driver of the Lancer Car bearing



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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Registration No.TN-01-AC-0148 before the Ulundurpet Police Station in Crime No.534 of 2009 against the driver, Vishnuchakravarthy, who also died in the accident. The complainant is the driver of the appellant's Transport Corporation bus.

26. On the side of the claimants, one Balamurugan, an independent witness was examined as PW5. During his chief examination he stated that on the date of the accident i.e., on 20.10.2009 at about 7.00 hours, he was standing near the toll gate to go to Ulundurpet Town. At about 8.40 hours the driver of the Lancer Car bearing Registration No.TN-01-AC-0148 was driving the vehicle at a normal speed, at that time, the driver of the Transport Corporation bus bearing Registration No.TN-63-N-1292, drew the bus in a rash and negligent manner, without signal and suddenly crossed the road. Therefore, the Lancer car lost its balance and dashed against the Transport Corporation bus and hence, the accident occurred. He was cross-examined by the respondent. During cross examination he admitted that both the drivers were responsible for the accident. Ex.P16 rough sketch indicates that the accident occurred at the crossroad on the North to South NH-45 Trichy road leading to Chennai, the Lancer car



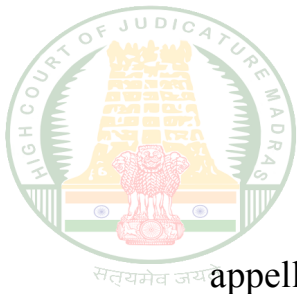
C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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was coming from Trichy and proceeded to Chennai. Similarly, the Transport Corporation bus came from Chennai and turned towards Ulundurpet by-pass road, near the signal the car collided with the left rear side of the bus.

27. The record reveals that all the occupants of the Car died on the spot due to head injuries and other fatal injuries. Since none of the occupants were alive, the real cause of the accident was not reported by them.

28. Normally, a vehicle entering a curve from a straight road would need to be more cautious, it is likely to move slower than a vehicle already on the road, as navigating a curve requires reduced speed to maintain control due to the forces acting on the bus while turning. A vehicle entering the curve should always be more cautious and slow down significantly to navigate the turn safely. If the bus driver properly sounds the horn, it could alert the oncoming vehicle to reduce its speed, as the driver may not anticipate the sudden entry of the bus. Therefore if the driver of the bus while entering the curved road slowed down and sounded the horn, the accident could not have occurred. Further, the



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

WEB COPY

appellant Transport Corporation has failed to produce the Motor Vehicle Inspector report to show the damages caused to the bus as well as the car.

29. The evidence of the eyewitness deposed that due to the sudden turning of the bus, the driver of the Car was unable to maintain control and collided with the bus.

30. The Mahazar Ex.P16 shows that the accident spot is on the curve road and the Transport Corporation bus coming from Chennai and about to enter the Ulundurpet by-pass Road. The Lancer car from Trichy to Chennai collided with the left rear portion of Transport Corporation bus and due to the above reason the accident occurred. As a result all the occupants of the car lost their lives.

31. The Tribunal holds that based on the evidence of eye-witness, the accident occurred due to the negligence act of the driver of the Transport Corporation bus. We accept the Tribunal findings that the accident occurred due to the negligence act of driver of the the Transport corporation. At the same time, one cannot rule out that the vehicle coming from a straight road should also be more careful and if



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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there is a curve on the opposite side, the driver must slow down to cross any vehicle is entering the curve road and sound horn. Therefore, we hold that the driver of the Lancer car is also responsible for the contributory negligence. We fix 75% negligence on the part of Transport Corporation driver and 25% on the driver of the Lancer car. The Point No.1 is answered accordingly.

32.Now we have to decide who is responsible to pay the compensation amount for the negligence act of the driver of the Lancer car.

33. As per records, the Lancer car was originally owned by one Balaraman, the second respondent and the Car was insured with United India Insurance Company Limited, who is the 3rd respondent before the Tribunal.

34. The claimants in all the MCOP petitions claimed that the original owner of the Lancer car is one Balaraman the 2nd respondent in MCOP.Nos.80 to 83 of 2010 and 3rd respondent in MCOP.No.552 of 2011 and he along with Insurance Company viz., United India Insurance



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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and the Reliance General Insurance Company are liable to pay compensation. The 2nd respondent was examined as R.W.1, deposed that he purchased the Lancer car and insured the car with United India Insurance Company Limited till 03.10.2009. He further states that he had purchased the car under hire purchase scheme from Syndicate Bank but he had paid the entire loan amount to the Bank and obtained 'No Due Certificate' on 03.06.2009. Thereafter, he sold the vehicle to one Sankaran. He also produced delivery notes Ex.R3 and a letter sent by him to the Regional Transport Authority with request to transfer the car to present purchaser.

35. Thiru. Sankaran alleged to have purchased the car from RW1 was examined as R.W.4. He stated that he is engaged in the business of purchasing and selling of old car. He purchased the Lancer car from Balaraman and sold it to one Abdul Cafoor. But the said the Abdul Cafoor is not a party to the proceedings. Therefore, R.W.4 filed an impleading petition before the Tribunal to include the said purchaser Thiru. Abdul Cafoor, as a party. But the said petition was returned by the Court, questioning its maintainability. The petition filed by R.W.4 was placed on records. R.W.4 in his cross examination admitted that



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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thereafter, he has not taken any steps to implead the Abdul Cafoor as a party.

36. The Insurance Company, who is the third respondent before the Tribunal filed Ex.R7-investigation report by the detective agent for Banks and Investigator Manager of United India Insurance Company dated 22.12.2010, in which it was stated that the car was purchased by Balaraman sold to Sankaran and inturn Sankaran sold to Abdul Cafoor. The said Abdul Cafoor sold the property to Thangaraj, who had travelled in the Car and died.

37. Though it was stated that the original owner sold the vehicle to third parties, as per legal position, the original owner must have legal title and the transfer must be registered with the appropriate Motor Vehicle Authority. But the same was not done by the original owner Balaraman. If the original owner has not taken any steps to transfer the vehicle to the third party purchaser and the vehicle remains in his name, he is legally responsible for any liability arising from accident, insurance claim, or legal dispute involving the vehicle. The insurance policy issued by the third respondent was marked as Ex.R1 which shows



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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that the period of insurance covered under the policy was from 4.10.2008 to midnight 3.10.2009. Another policy for the Lancer car was marked as Ex.R8 which was issued by the Reliance General Insurance Company Limited, Madurai, who is the 6th respondent before the Tribunal, for the period from 21.10.2009 to 20.10.2010. The date of accident occurred on 20.10.2009. The Investigating Agency report of United India Insurance Company shows that the Insurance coverage was issued on 21.10.2009 and it was also admitted by R.W.5 on behalf of Reliance Insurance Company. But the policy was issued only on 21.10.2009.

38. The learned counsel for the Reliance General Insurance Company relied upon the judgement in ***The Branch Manager, National Insurance Company Ltd., Dindigul Vs. Vijayalakshmi and others reported in 2017(1) T NMAC 168 (DB)*** in which paragraphs Nos.7 and 19 are held as follows :

“7. PW1 is the wife of the deceased Balakrishnan and she deposed that the accident took place on 27.10.2010 and she was not aware of the fact that the offending vehicle was insured on the next day on 28.10.2010 and denied the suggestion that there was no insurance coverage of



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C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

the vehicle. PW2 is an eyewitness to the accident.

Ex.P5 is the crucial document and it is the receipt/cover note a perusal of the same would disclose that premium was collected in respect of the offending vehicle and the cover note was issued on 27.10.2010 at 2.51 p.m. RW2 is the Administrative Officer of the appellant/second respondent/insurance company and he denied the suggestion that since the premium was collected before the accident on 27.10.2010, which came into force from that time and as such, they are liable to pay compensation. Ex.R2 is the policy issued in the name of the fifth respondent, namely Thiru.G.Velmurugan and it came into force on 28.10.2010 and was in force from midnight of 28.10.2010 till midnight of 27.10.2011. Ex.R3 is the insurance policy in the name of Thiru.R.Sundarajan/sixth respondent and it came into force from the midnight of 28.10.2010 till the midnight of 27.10.2011 and thus, in the light of Ex.R3 policy, it is the case of the appellant/insurance company that since the policy came into force only on the midnight of 28.10.2010 and whereas the accident took place at about 17.00 hours on 27.10.2010, they cannot be mulcted with the liability to pay compensation.



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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19. *Therefore, it is to be held that coverage commences from the time and date mentioned in the Insurance policy as it is being a Special Contract and admittedly, in the case on hand, the policy came to be issued after the accident and so also the coverage and as such, the appellant/insurance company cannot be mulcted with the liability to pay compensation by indemnifying the owner of the vehicle.”*

Therefore it shows that on the date of the accident, the insurance policy was not in force for the Lancer car.

39. We rely upon the judgement of the Hon'ble Supreme Court in Appeal (Civil) No.1082 of 2008 reported ***in 2008 (3) SCC 748, in T.O.Anthony versus Karvarnan and Others***, it was held in paragraphs Nos.6 and 7 are as follows:

“6. 'Composite negligence' refers to the negligence on the part of two or more persons. Where a person is injured as a result of negligence on the part of two or more wrongdoers, it is said that the person was injured on account of the composite negligence of those wrong-doers. In such a case, each wrongdoer, is jointly and severally



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C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

liable to the injured for payment of the entire damages and the injured person has the choice of proceeding against all or any of them. In such a case, the injured need not establish the extent of responsibility of each wrong-doer separately, nor is it necessary for the court to determine the extent of liability of each wrong-doer separately. On the other hand where a person suffers injury, partly due to the negligence on the part of another person or persons, and partly as a result of his negligence, then the negligence of the part of the injured which contributed to the accident is referred to as his contributory negligence. Where the injured is guilty of some negligence, his claim for damages is not defeated merely because of the negligence on his part but the damages recoverable by him in respect of the injuries stand reduced in proportion to his contributory negligence.

7. Therefore, when two vehicles are involved in an accident, and one of the drivers claims compensation from the other driver alleging negligence, and the other driver denies negligence or claims that the injured claimant himself was negligent, then it becomes necessary to consider whether the injured claimant was negligent and if so, whether he was solely or partly responsible for



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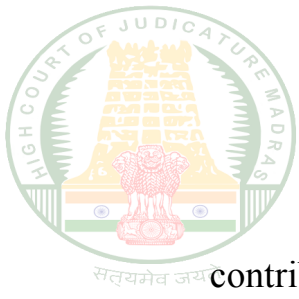


C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

the accident and the extent of his responsibility, that is his contributory negligence. Therefore where the injured is himself partly liable, the principle of 'composite negligence' will not apply nor can there be an automatic inference that the negligence was 50:50 as has been assumed in this case. The Tribunal ought to have examined the extent of contributory negligence of the appellant and thereby avoided confusion between composite negligence and contributory negligence. The High Court has failed to correct the said error."

40. Therefore, we fix the responsibility at 25% on the car driver and 75% on the driver of the Transport Corporation. The passengers not contributed to the act of negligence of the driver, we considered them as innocent victims.

41. The vehicle was still standing in the name of registered owner and no proper transfer was made by him. Even if the car was sold, it was not effectively transferred. The owner did not claim that the vehicle was used unauthorisedly by the driver, the driver hold proper licence at the time of accident and hence, he is responsible for the



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

contributory negligence on the part of its driver.

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42. Points Nos.2 and 5 :

MCOP Nos. 80, 82 and 83/2010, filed by Kavitha and others. The claimants are the sisters of deceased Lavanya, and daughters of deceased Thangaraj (father of the claimants) and Smt.Saraswathi (mother of the claimants) filed the MCOP.Nos.80, 82 and 83 of 2010 claiming that they are the dependents of the deceased and entitled to compensation.

43. As per the claimants, their father, Thangaraj who was aged about 70 years stated to be doing real estate business at Dindigul and earning a sum of Rs.10,000/- per month. But they have not produced any document to show the same. Likewise, they have stated that their mother Saraswati was aged about 60 years, alleged that she has been carrying on a textile business at Dindigul and earning a sum of Rs.6000/- per month.

44. The learned counsel for the appellant argued that a sum of Rs.2,43,000/- fixed as notional income for the deceased, Saraswati is



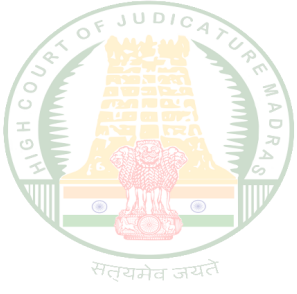
C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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on the higher side as the claimants failed to produce any document to show her income. As per the claimants, their mother was doing a textile business, but they have not produced any document to show her income. Even if the mother of the claimants is assumed to be a homemaker, the claimants are entitled to compensation.

45. The Hon'ble Supreme Court in the landmark judgement in *Kirti and Another vs. The Oriental Insurance Company Limited*, reported in *AIR 2021, Supreme Court, 353*, the Court recognised that the contribution of homemakers holds significant value and should be acknowledged when determining the compensation.

46. The Court emphasised that the service rendered by homemakers, such as managing household works, child care, and supporting family members contribute substantially to the economic condition of the family and the economy of the nation, even though these activities are traditionally excluded from economic analyses. The Tribunal fixed the notional income of the deceased Saraswathy at Rs.27,000/- per annum.

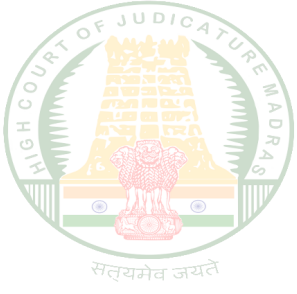


C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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47. Now we have to see whether the claimants proved that they are dependent on the deceased Thangaraj and Saraswathy. There is no dispute that they are all legal heirs, but for claiming compensation, they must prove that they are dependent on the deceased and due to their sudden demise deprived and liable for compensation. In this case, it is proved that all the claimants were married and settled with their husbands in various places. The cross-examination of PW2 Tmt.Kavita is extracted hereunder :

“எனக்குதிருமனமாகி குழந்தைகள் இருக்கிறது. என் கணவர் வியாபாரம் செய்து வருகிறார். நான் வேலை எதுவும் செய்யவில்லை. எனது கணவர் மாதம் ரூ.5000, 6000 தான் சம்பாதித்து வருகிறார். நான் மனு தாக்கல் செய்தபிறகு திருச்சி வாடகை வீட்டில் தான் இருக்கிறேன். நான் என் கணவர் மாதம் ரூ.20000/-க்கு மேல் சம்பாதித்து வருகிறார் என்றும் வழக்கிற்காக மாதம் ரூ.5000, 6000 என்று சம்பாதித்து வருகிறார் என் பொய்யாக சொல்கிறேன் என்றால் சரியல்ல. நான் கூறும் மேற்படி வருமானத்தை வைத்து திருச்சி நகரில் வாழமுடியாது என்றால் சரியல்ல. 2ஆம் மனுதாரர் சுதா எனது தங்கை அவர் எம்பிபிஎஸ் முடித்து உள்ளார். அவருக்கு திருமனமாகி பெங்களூரில் எம்டி படித்துவருகிறார். அவரது கணவர் இன்ஜினியர்



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C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

பெங்களூரில் தான் வேலைபார்க்கிறார் என்ன நிறுவனத்தில் வேலை பார்க்கிறார் அவர் எவ்வளவு வருமானம் ஈட்டிவருகிறார் என்பதும் தெரியாது. 3ஆம் மனுதாரர் விஜயரேகா பிஈ முடித்து உள்ளார். அவரும் அவரது கணவரும் பெங்களூரில் குடியிருந்து வருகிறார்கள். அவருடைய கணவரும் இன்ஜினியர். அவர் எவ்வளவு சம்பளம் வாங்குகிறார் என்று எனக்கு தெரியாது. 4ஆம் மனுதாரர் அகிலா எம்பிபிஎஸ் முடித்து உள்ளார். அவரும் அவரதுகணவருடன் இங்கிலாந்தில் இருக்கிறார். அகிலா படித்துக்கொண்டே வேலைபார்க்கிறார். அவருடைய கணவரும் சம்பாதிக்கிறார். அவர் இங்கிலாந்தில் எவ்வளவு சம்பளம் வாங்குகிறார் என்று எனக்கு தெரியாது.”

Accidental compensation for the loss of income due to the death of parents is typically granted to legal dependants. If the daughters are married, well settled, and not financially dependent on the deceased parent, their entitlement to compensation for loss of income is an issue. However, they may still be entitled to the compensation under the head of loss of love and affection, loss of estate and funeral expenses.

48. Loss of estate refers to the financial loss, suffered by the legal heirs of the deceased due to the death of a person. It includes the



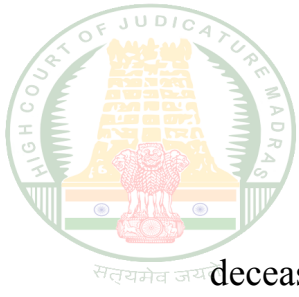
C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

WEB COPY

deceased's income, savings, assets, and future earnings that would have contributed to their families. The Tribunal taking into consideration of age of deceased Thangaraj and Saraswati fixed their income at Rs.6,000/- and Rs.3,000/- respectively and awarded compensation, which we hold as proper.

49. However, the Tribunal awarded Rs.1,00,000/- each for the claimants for love and affection and Rs.25,000/- towards funeral expenses and awarded the sum of Rs.6,65,000/- as compensation for the death of Saraswati, and a sum of Rs.6,95,000/- for the death of deceased Thangaraj.

50. For fixation of the future prospectus, loss of consortium, and funeral expenses, certain guidelines were issued by the Apex Court in the judgment rendered in *National Insurance Company Ltd., Vs. Pranay Sethi and Others* reported in *AIR 2017 SC 5157*, in which the loss of love and affection/consortium, Rs.40,000/- to be awarded and for funeral expenditure should be Rs.15,000/-, we feel it appropriate to reduce to Rs.40,000/- for loss of love and affection and Rs.15,000/- for the funeral expenditure, the Tribunal properly applied multiplier 9 for



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

WEB COPY

deceased Saraswati, applied multiplier 5 for deceased Thangaraj which is proper. Therefore, we modify the award for deceased Saraswathy (MCOP No.80 of 2010) as follows :

Loss of earning	Rs.2,43,000/-
Loss of love and affection	Rs.1,60,000/-
Funeral Expenditure	Rs. 15,000/-

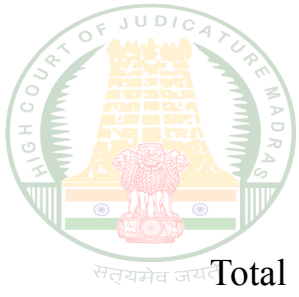
Total award	Rs.4,18,000/-
Less contributory negligence, 25%	Rs.1,04,500/-

Total	Rs.3,13,500/-

Compensation for Deceased Thangaraj (MCOP No.83 of 2010)

Loss of earning	Rs.2,70,000/-
Loss of love and affection	Rs.1,60,000/-
Funeral Expenditure	Rs. 15,000/-

Total award	Rs.4,45,000/-
Less contributory negligence, 25%	Rs.1,11,250/-



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

Total
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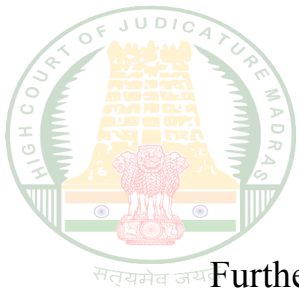
Rs.3,33,750/-

In both awards, the claimants are entitled to equal share. Points Nos. 2 and 5 are answered accordingly

51. Point No.3:- (MCOP.No.81 of 2010)

As far as deceased Lavanya is concerned, the claimants are her sisters and the fourth respondent is her husband and legal heir certificate in his name. Taking into consideration the age, income, and other aspects, the Tribunal fixed annual income of deceased Lavanya after deduction of tax at Rs.4,19,967/- which is correct. But the Tribunal awarded a sum of Rs.1,00,000/- each for loss of love and affection, and another Rs.1,00,000/- for the fourth respondent also loss of marital consortium is not proper.

52. As per the judgement rendered by the Apex Court in ***National Insurance Company Ltd., Vs. Pranay Sethi and Others*** reported in ***AIR 2017 SC 5157***, it was held that Rs.40,000/- to be awarded under the head of love and affection/consortium, but the Tribunal awarded excess compensation which needs modification.



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

WEB COPY

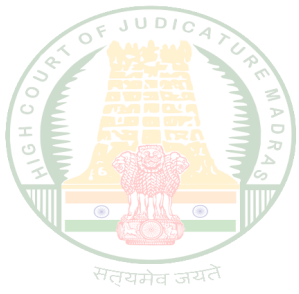
Further, the Tribunal deducted 1/3rd for personal expenditure, but it should be 1/4th where the number of dependent families are 4 to 6, which needs modification. We modify the amount as follows :

Loss of earning	Rs.60,25,559
Loss of love and affection	Rs. 2,00,000
Loss of estate	Rs. 15,000/-
Funeral Expenditure	Rs. 15,000/-

Total award	Rs.62,55,599/-
Less contributory negligence, 25%	Rs.15,63,899/-

Total	Rs.46,91,700/-

The Tribunal awarded 35% award in favour of the claimants who are sisters and 65% in favour of the fourth respondent against which the fourth respondent not filed any appeal, therefore, we also hold that claimants 1 to 4 are entitled to a additional sum of Rs.5,47,365/- each (totally a sum of Rs.21,89,460/-) towards compensation and fourth respondent is entitled to the remaining amount of Rs.40,66,139/- towards compensation. The Point No.3 is answered accordingly.



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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53. Point No.4 :

As far as MCOP.No.82 of 2010 claimants are concerned, they are the parents of the deceased Vishnuchakravathy, who had driven the Lancer car and caused the accident. The Tribunal fixed the income at Rs.6,000/- which is proper but added the future prospectus at 50% which is on the higher side. As per the guidelines of the Apex Court in *National Insurance Company Ltd., Vs. Pranay Sethi and Others* reported in *AIR 2017 SC 5157*, that if the deceased is self employed, the future prospects of 40% are to be added, the driving licence shows his date of birth as 14.03.1985 and therefore, he was 24 years old at the time of the accident, the monthly income would be Rs.8,400/- as he was self-employed and ½ to be deducted for his expenses and his monthly income is Rs.4,200/-. The multiplier applicable is 18, therefore, the loss of income would be Rs.4200 x 12 x 18 = Rs.9,07,200/-.

Loss of earning	Rs.9,07,200/-
Loss of love and affection	Rs.1,20,000/-
Loss of estate	Rs. 15,000/-
Funeral Expenditure	Rs. 15,000/-
Total	Rs.10,57,200/-



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

WEB COPY

Less contributory negligence, 25% Rs.2,64,300/-

Total award Rs.7,92,900/-

Claimants 1 and 2 are entitled to a sum of Rs.4,50,000/- each towards compensation and the 3rd claimant is entitled to a sum of Rs.1,57,200/- towards compensation. The Point No.4 is answered accordingly.

54. Point Nos.6 & 7 :

As far as C.M.A.(MD)No.71 of 2021 is concerned, the Transport Corporation objected to the Tribunal award of Rs.7,60,000/- as highly excessive and not proper. Further stated that the award of Rs.50,000/- towards loss of love and affection, contrary to the law laid down by the Apex court in Pranay Sethi's case. The Tribunal fixed the monthly income at Rs.4000/- by adding future prospectus 25% namely, Rs.1000/- and the annual income fixed at Rs.60,000/-. Taking into consideration the dependency deducted 1/4th towards personal expenses. On the date of the accident, his age was 41 and applied a multiplier at 14. Therefore, the Tribunal awarded a sum of Rs.6,30,000/- towards loss of dependency, Rs.15,000/- towards loss of estate, Rs.40,000/- towards loss



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

WEB COPY

of consortium, Rs.50,000/- each towards loss of love and affection for the petitioners, Rs.15,000/- towards funeral expenses and Rs.10,000/- towards transport expenses.

55. The claimants are the wife and sons and mother of the deceased Kannan and they have also filed cross objection in Cros.Obj. (MD)No.5 of 2021 by stating that the Tribunal failed to consider that the deceased was an ex-serviceman and received a pension and also produced Exs.P15, P17, P19, P20, P22 and P23 to substantiate their claim and also produced Exs.P8 to P14 to show his agricultural income also argued that loss of income awarded at Rs.15,000/- is very meagre and to be enhanced.

56. On perusal of records shows that the deceased Kannan was also travelling in the Lancer car and died. The claimants are the wife sons, and mother of the deceased. To support their claim, they produced a legal heirship certificate of late. Kannan Ex.P4, in which the claimant's name along with the deceased father's name also found.

57. As per the claimants, late. Kannan receives a pension of



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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Rs.4500/- per month in the Indian Military Service as an ambulance Assistant in the Indian Army. The 1st claimant, wife of the deceased was examined as P.W.1. She also stated that he was engaged in real estate business and earning income. She further stated that in respect of the property gifted on 09.06.2004, he received income from the mango trees situated therein and from the property additionally in a property document dated 10.10.2007, there were Sapota (Sapodilla/chiku) trees from which he derived income, he also took a land for lease in Nallur and received income. From out-of-agricultural activities, a total sum of Rs.1,11,600/- derived from the above. To substantiate the income they had filed Exs.P8 to Exs.P14.

58. We have verified the documents, the settlement deed in favour of late.Kannan confirms that his father gifted some property in his favour. Ex.P9 to Ex.14 are sale deeds but it indicates that he had purchased only plots, not agricultural land as stated in the petition. Ex.P11, Ex.P15, and Ex.P17 are bank account stands in the name of late. Kannan from 7.4.2009 to 31.3.2010, in which few cash deposits were found in his bank accounts.

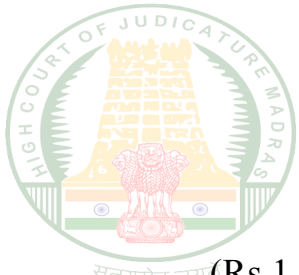


C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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59. On the side of the claimants, one Karuppaiah has been examined as P.W.2 and he stated that Kannan through mango fruits from the lease land derived income of Rs.4,25,000/-, but he has not produced any document to substantiate the same. Further, the claimants have not produced any Adangal to show that late. Kannan was involved in agricultural activities.

60. However, the bank statement shows some financial transaction in his account to infer that, apart from his pension amount, he was also involved in some other business and derived income. Ex.P16 is a pension account, revealing that he received a pension from the Indian Army and even after his death, it will go to his wife, therefore, no loss of income in the pension. Therefore, we are of the view that his monthly income to be increased from Rs.4,000/- to Rs.8,000/-, future prospects would be 25% and hence, total monthly income would be Rs.10,000/-. The dependants are 4, when the family members are 4 to 6, 1/4th deduction to be made towards personal expenses, we fix the annual income at Rs.1,02,000/- and his date of birth mentioned in the driving license as 10.05.1968, at the time of the accident he was aged about 41 years, multiplier to be used as 14, loss of income fixed at Rs.14,28,000/-.



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

(Rs.1,02,000 x 14 = Rs.14,28,000/-)

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61. The Tribunal allowed a sum of Rs.50,000/- each to the dependence towards loss of love and affection and also Rs.40,000/- for loss of consortium. The compensation could not be allowed on both the head of loss of love and affection and consortium at Rs.40,000/-. Therefore for loss of consortium/loss of love and affection we fix a sum of Rs.1,60,000/-. In other heads, we confirm the award passed by the Tribunal.

Loss of dependency/earning	Rs.14,28,000/-
Loss of love and affection	Rs.1,60,000/-
Loss of estate	Rs. 15,000/-
Funeral Expenses	Rs. 15,000/-
Transport Expenses	Rs. 10,000/-
Total award	Rs.16,28,000/-
Less contributory negligence, 25%	Rs.4,07,000/-
Total	Rs.12,21,000/-



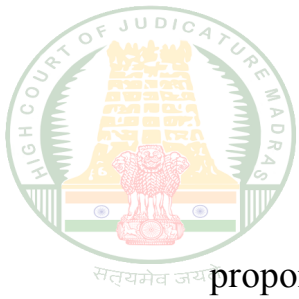
C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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Therefore, the compensation awarded by the Tribunal is enhanced and the Cross objection in Cros.Obj(MD)No.5 of 2021 is partly allowed and the award passed by the Tribunal is enhanced. The C.M.A.(MD)No.71 of 2021 filed by the Transport Corporation is dismissed. The point Nos.6 and 7 are answered accordingly.

62. C.M.A.(MD)No.97 of 2019

In the result, the Civil Miscellaneous Appeal in C.M.A. (MD)No.97 of 2019 is allowed. The award passed by the trial Court is modified and the Appellant Transport Corporation is directed to pay a sum of Rs.3,13,500/- and Balaraman/respondent No.5/owner of the Lancer car is directed to pay a sum of Rs.1,04,500/- to the respondents 1 to 4/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.80/2010 on the file of the Subordinate Court, Motor Accident Claims Tribunal, Virudhunagar, within four weeks from the date of receipt of a copy of this order. On such deposit, the respondents 1 to 4/claimants are entitled to a sum of Rs.1,04,500/- each towards their share and are permitted to withdraw the same, less the amount already withdrawn, if any, together with

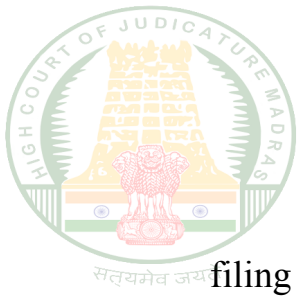


C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

proportionate interest and costs, by filing an appropriate petition before the Tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

63. C.M.A.(MD)No.98 of 2019

In the result, the Civil Miscellaneous Appeal in C.M.A. (MD)No.98 of 2019 is allowed. The award passed by the trial Court is modified and the Appellant Transport Corporation is directed to pay a sum of Rs.7,92,900/- and Balaraman/respondent No.4/owner of the Lancer car is directed to pay a sum of Rs.2,64,300/- to the respondents 1 to 3/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.82/2010 on the file of the Subordinate Court, Motor Accident Claims Tribunal, Virudhunagar, within four weeks from the date of receipt of a copy of this order. On such deposit, respondents 1 and 2/claimants 1 and 2 are entitled to a sum of Rs.4,50,000/- each towards their share and respondent No.3/ claimant No.3 is entitled to a sum of Rs.1,57,200/- towards his share and the claimants are permitted to withdraw the same, less the amount already withdrawn, if any, together with proportionate interest and costs, by



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

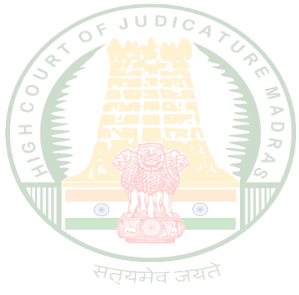
filing an appropriate petition before the Tribunal. No costs.

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Consequently, connected miscellaneous petitions are closed.

64. C.M.A.(MD)No.99 of 2019

In the result, the Civil Miscellaneous Appeal in C.M.A. (MD)No.99 of 2019 is allowed. The award passed by the trial Court is modified and the Appellant Transport Corporation is directed to pay a sum of Rs.3,33,750/- and Balaraman/respondent No.5/owner of the Lancer car is directed to pay a sum of Rs.1,11,250/- to the respondents 1 to 4/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.83/2010 on the file of the Subordinate Court, Motor Accident Claims Tribunal, Virudhunagar, within four weeks from the date of receipt of a copy of this order. On such deposit, the respondents 1 to 4/claimants are entitled to a sum of Rs.1,11,250/- each towards their share and are permitted 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, connected miscellaneous petitions are closed.

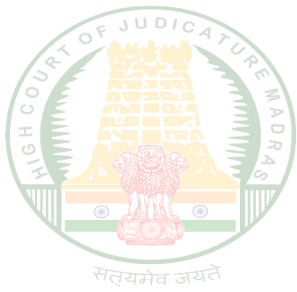


C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

65. C.M.A.(MD)No.1204 of 2018

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In the result, the Civil Miscellaneous Appeal in C.M.A. (MD)No.1204 of 2018 is allowed. The award passed by the trial Court is modified and the Appellant Transport Corporation is directed to pay a sum of Rs.46,91,700/- and Balaraman/respondent No.5/owner of the Lancer car is directed to pay a sum of Rs.15,63,899/- to the respondents 1 to 4 & 7/claimants & 4th respondent 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.81/2010 on the file of the Subordinate Court, Motor Accident Claims Tribunal, Virudhunagar, within four weeks from the date of receipt of a copy of this order. On such deposit, the respondents 1 to 4/claimants are entitled to a sum of Rs.5,47,365/- each (Rs.21,89,460/-) towards their share and 7th respondent/4th respondent is entitled to a sum of Rs.40,66,139/- towards his share and they are permitted 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.



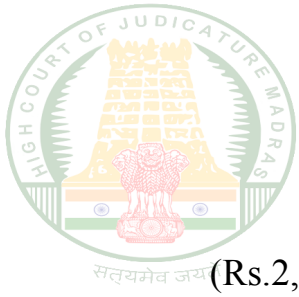
C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

66. C.M.A.(MD)No.71 of 2021 & Cros.Obj.(MD)No.5 of

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In the result, the Civil Miscellaneous Appeal is partly allowed and the award is modified as in cross objection. No costs. Consequently, the connected miscellaneous petition is closed.

67. The Cross objection in Cros.Obj.(MD)No.5 of 2021 is partly allowed. The award passed by the trial Court is modified and the Appellant Transport Corporation is directed to pay a sum of Rs.12,21,000/- and Balaraman/7th respondent /owner of the Lancer car is directed to pay a sum of Rs.4,07,000/- to the respondents 1 to 5/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 MCOP.No.552/2011 on the file of the Principal District Court, Motor Accident Claims Tribunal, Dindigul, 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.7,28,000/- towards her share and respondents 2 and 3 / claimants 2 and 3 are entitled to a sum of Rs.3,50,000/- each (Rs.7,00,000/-) towards their share and respondents 4 & 5/claimants 4 and 5 are entitled to a sum of Rs.1,00,000/- each



C.M.A(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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(Rs.2,00,000/-) towards their share and the claimants 1, 2 and 4 and 5 are permitted 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. The Tribunal is directed to deposit the share of the minor 3rd respondent/3rd claimant in a nationalized bank until he attains majority. The 1st respondent herein, who is the mother/guardian, is permitted to withdraw the interest amount once in three months. No costs.

(G.J., J.) & (R.P., J.)
12.03.2025

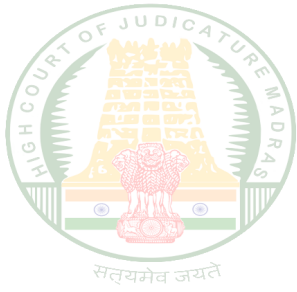
Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM

To

1. The Principal District Court,
Motor Accident Claims Tribunal,
Dindigul,
2. The Subordinate Court,
Motor Accident Claims Tribunal,
Dindigul.

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.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

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

RM

Judgment in
C.M.A.(MD)Nos.97 to 99 of 2019, 1204 of 2018, 71 of 2021
& Cross Objection No.5 of 2021

12.03.2025