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IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 11-11-2026**

CORAM

**THE HON'BLE MR.JUSTICE M.JOTHIRAMAN**

**CMA Nos. 2223 & 2224 of 2023 and 674 & 676 of 2022**
**and CMP Nos. 4791 & 4787 of 2022**
**CNR:{HCMA010503952023}**

Case QR

**CMA No. 2223 of 2023**

1. Sakkarai
   S/o Raji Gounder

2. Minor Sakthivel
   S/o Sakkarai

3. Minor Chandru
   S/o Sakkarai

..Appellant(s)

Vs

1. Elanchezhiyan
   S/o Ramachandiran

2. The Manager
   Cholamandalam M/s General Insurance
   Company Limited, No 2, Dare House, 2nd
   Floor, N.S.C Bose Road, Chennai -1.

..Respondent(s)

Case QR

**CMA No. 674 of 2022**

*CNR:{HCMA010323272022}*

Elanchezhiyan
S/o.Ramachandiran

..Appellant(s)

Vs

1. Sakkarai
   S/o.Raji Gounder



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2. Minor Sakthivel,
   S/o.Sakkarai

3. Minor Chandru,
   S/o.Sakkarai

4. The Manager,
   Cholamandalam MS General, Insurance,
   Company Ltd., No.2, Dare House, 2nd Floor,
   N.S.C.Bose Road, Chennai - 01.

..Respondent(s)

**CMA No. 676 of 2022**

*CNR:{HCMA010323282022}*

Elanchezhiyan
S/o.Ramachandiran

..Appellant(s)

Vs

1. Sakkarai
   S/o.Raji Gounder

2. The Manager,
   Cholamandalam MS, General Insurance
   Company Ltd., No.2, Dare House, 2nd Floor,
   N.S.C.Bose Road, Chennai - 01.

..Respondent(s)

**CMA No. 2224 of 2023**

*CNR:{HCMA010503962023}*

Sakkarai
S/o Raji Gounder

..Appellant(s)

Vs

1. Elanchezhiyan
   S/o Ramachandiran
2. The Manager
   Cholamandalam M/s General Insurance



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Company Limited, No 2, Dare House, 2nd Floor, N.S.C Bose Road, Chennai -1.

..Respondent(s)

**PRAYER IN CMA No. 674 of 2022:** This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 praying to set aside the Judgment and Decree dated 04.01.2022 made in MCOP No.885 of 2017 on the file of the Motor Accident Claims Tribunal/Learned Special Sub Judge (MCOP) Cases, Tiruvannamalai.

**PRAYER IN CMA No. 676 of 2022:** This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 praying to set aside the judgment and decree dated 04/01/2022 made in MCOP No.936/2017 on the file of the Motor Accident Claims Tribunal/Special Sub Judge (MCOP) Cases Tiruvannamalai.

**PRAYER IN CMA No. 2223 of 2023:** This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 praying to enhance and set aside the judgment and decree dated 04.01.2022 and made in MACTOP No.885 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Thiruvannamalai.

**PRAYER IN CMA No. 2224 of 2023:** This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 praying to enhance and set aside the award against the judgment and decree dated 04.01.2022 and made in MACTOP No.936 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Thiruvannamalai.

For Appellant(s): Mr.A.G.F.Terry Chella Raja
in CMA.Nos.2223 and
2224 of 2023



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Mr.Manoharan
in CMA.Nos.674 and
676 of 2022

For Respondent(s): Mrs.N.Manoharan
for R1 in CMA.No.2223 &
CMA.No.2224 of 2023
Mrs. R. Sreevidhya
for R2 in CMA.676/2022
for R4 in CMA.674/2022
for R2 in CMA.2223/2023
& CMA.2224/2023
Mr.A.G.F.Terry Chella Raja
for R1 in CMA.676/2022
for R1 to R3 in
CMA.674/2022

**COMMON JUDGMENT**

Unsuccessful owner of the vehicle has preferred the appeals in CMA.No.674 of 2022 & CMA.No.676 of 2022, challenging the quantum of compensation and negligence fixed on their part. Unsuccessful claimants have preferred the appeals in CMA.No.2223 of 2023 & CMA.No.2224 of 2023 seeking enhancement of compensation. CMA.No.674 of 2022 has been preferred by the owner of the offending vehicle and CMA.No.2223 of 2023 has been preferred by the claimants seeking enhancement of compensation, aggrieved over by the award passed in M.C.O.P.No.885 of 2017 with regard to fatal case. CMA.No.676 of 2022 has been preferred by the owner of the vehicle and CMA.No.2224 of 2023 has been preferred by the claimant seeking for enhancement of compensation aggrieved over by the award passed in M.C.O.P.No.936 of 2017 regarding the injury case.



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2. The claim petition in M.C.O.P.No.885 of 2017 has been filed under Section 166 of the Motor Vehicles Act, 1988, by the dependents of the deceased one Thilaga. The claim petition in M.C.O.P.No.936 of 2017. has been filed under Article 166 of the Motor Vehicles Act, 1988 seeking compensation for the injuries sustained by the claimant, namely Sakkarai in the road accident

3. According to the claimants in M.C.O.P.No.885 of 2017, the 1st claimant is the husband, 2nd and 3rd claimants are minor sons of the deceased Thilaga. According to the claimants, on 02.03.2016 at about 10.20 a.m, the deceased Thilaga was travelling as a pillion rider with her husband, who is the 1st claimant in M.C.O.P.No.885 of 2017 as well as the claimant in M.C.O.P.No.936 of 2017, in the motor cycle bearing Regn.No.TN 48K 1085 driven by the 1st claimant in a proper manner and following road traffic rules in the extreme left side of the road in soil path towards Government Medical Hospital at Tiruvannamalai on Vellore to Avalurpet road and while they were nearing the compound of Government Medical College Hospital at By-pass road, at that time, the driver of Tauras Lorry bearing Regn.No.TN 25J 7620 driven its driver in a rash and negligent manner dashed against the two wheeler. Due to that accident, the deceased / pillion rider died on the spot and the claimant in M.C.O.P.No.936 of 2017 sustained multiple fractures in his left leg, left thigh, right leg amputated and injuries all over his body. According to the claimants, the offending vehicle was driven by Bakkiyaraj and the same was



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insured with the 2nd respondent/Insurance company at the time of the accident. According to the claimants in M.C.O.P.No.885 of 2017, the deceased Thilaga was aged about 35 years, working as a building construction worker and was earning Rs.20,000/- per month at the time of accident. According to the claimant in M.C.O.P.No.936 of 2017, he was aged about 42 years, working as Mason and was earning Rs.20,000/- per month at the time of accident. Due to the injuries sustained by him in the accident, he was permanently disabled and he could not able to do his Mason work as prior to the accident.

4. The 1st respondent, owner of the offending vehicle filed counter statement wherein the 1st respondent has denied the manner of accident. At the time of accident, the driver of the lorry one Bakkiyaraj, was driving the lorry in a proper manner and the driver of the two wheeler drove the two wheeler in a rash and negligent manner and suddenly crossed the road without any indication. Hence, the Tauras lorry dashed against the two wheeler. It is also stated that the Tauras lorry was insured with the 2nd respondent/insurance company properly vide policy no.3379/01376751/000/00 and it was valid from 02.03.2016 to 01.03.2017. The driver of the lorry was already having valid and effective driving license at the time of the accident.

5. The 2nd respondent/insurance company has filed counter statement wherein it has been stated that the 2nd respondent's liability is subject to the



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validity of the driving license of the driver, R.C permit and insurance coverage. As per F.I.R, the accident was occurred on 02.03.2016 at about 10.20 a.m and as per the certificate cum policy, the insurance period covered from 02.03.2016 at about 12.10 p.m to 01.03.2017, midnight. Therefore, at the time of accident, the offending vehicle was not insured with the 2nd respondent/insurance company. The rider of the two wheeler did not obtain driving license to drive the motor vehicle and hence, the rider of the two wheeler alone is responsible for the accident.

6. Before the Tribunal, joint trial was conducted and evidence was recorded in M.C.O.P.No.885 of 2017. On behalf of the claimants, the 1st claimant in M.C.O.P.No.885 of 2017 and the claimant in M.C.O.P.No.936 of 2017 namely Sakkarai, who is the husband of deceased Thilaga, was examined as PW1 and Ex.P1 to Ex.P8 were marked. The Disability Certificate of the 1st claimant issued by the Medical Board was marked as Ex.C1. On the side of the 1st respondent, the driver of the offending vehicle / Tauras lorry was examined as RW1 and one official from RTO Office, Tiruvannamalai, was examined as RW2 and Ex.R1 was marked. The 1st respondent, who is the owner of the lorry, was examined as RW4 and Ex.R3 was marked through him. On the side of the 2nd respondent/Insurance Company, the Deputy Manager of the 2nd respondent / Insurance Company was examined as RW3 and Ex.R2 was marked through him.



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7. Upon appreciation of evidence adduced on the either side, the Tribunal finds that the accident occurred due to the rash and negligent driving of the driver of the Tauras lorry. Though 1st respondent / driver of the Tauras lorry was examined as RW1 and he has categorically deposed about the manner of accident and stated that the accident occurred due to rash and negligent act of the driver of the two wheeler, but he has not produced any documentary evidence before the Tribunal and therefore, the Tribunal concluded that the accident occurred only due to the rash and negligent driving of the driver of the offending vehicle. The Tribunal also finds that at the time of accident, the rider of the two wheeler was not having a driving license to drive the motorcycle and decided to fix 15% contributory negligence on the part of the rider of the two wheeler.

8. With regard to liability, on perusal of Ex.R3, 1st respondent has submitted the Motor Proposal Form to the insurance company at Madurai on 02.03.2016 for renewal of policy, but the 1st respondent has not produced any document except Ex.R3 to prove that he paid the premium amount prior to the accident and also not produced any cover note issued by the 2nd respondent to prove that the 1st respondent's vehicle was insured with the 2nd respondent at the time of the accident. The Tribunal concludes that the 1st respondent, who is the owner of the vehicle, alone is liable to pay compensation to the claimants and



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hence the claim petition filed against the 2nd respondent/insurance company is dismissed.

9. With regard to the quantum of compensation in M.C.O.P.No.885 of 2017 with regard to fatal case, the Tribunal fixed a sum of Rs.9,000/- per month as notional income and considering that the deceased was aged 35 years at the time of accident, added 40% towards future prospects, deducted 1/3rd towards personal expenses of the deceased and applied multiplier "16" and accordingly awarded compensation under the head loss of income. The Tribunal has also awarded compensation under various heads as tabulated hereunder:

| S.I.No. | Heads | Amount awarded by the Tribunal (in Rs.) |
|---|---|---|
| 1. | Loss of Income | 16,12,800 |
| 2. | Loss of consortium | 1,20,000 |
| 3. | Loss of Estate | 15,000 |
| 4. | Funeral Expenses | 15,000 |
| | Total | Rs.17,62,800 |
| Less: 15% Contributory Negligence on the part of the 1st claimant / driver of the motor cycle | | 2 ,64,420 |
| Compensation Payable | | **14,98,380** |

Aggrieved over the same, the unsuccessful owner of the vehicle, who is the 1st respondent therein, has preferred an appeal in CMA.No.674 of 2022. Aggrieved over the quantum of compensation, the claimants have preferred an appeal in CMA.No.2223 of 2023 seeking enhancement of compensation.



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10. With regard to the quantum of compensation in M.C.O.P.No.936 of 2017, the claimant was referred to Medical Board and the Medical Board assessed the disability of the claimant as 80%. On perusal of Ex.C1- Disability Certificate, the claimant has sustained "AK Amputation right leg" and the percentage of disability suffered by the claimant was fixed at 80%. The claimant suffered from functional disability which leads to loss of earning capacity and he could not able to do his day to day work. The Tribunal applied multiplier method and fixed the age of the claimant at the time of the accident as 45 years and fixed a sum of Rs.9,000/- per month as the notional income of the claimant and considering the age of the claimant, added 25% towards future prospects, adopted multiplier "14" and accordingly, awarded compensation under the head of loss of functional disability 80% for a sum of Rs.15,12,000/- The Tribunal has also awarded compensation under various other heads as tabulated hereunder:

| Sl.No. | Heads | Amount awarded by the Tribunal (Rs.) |
|---|---|---|
| 1. | Loss of Functional disability [9,000 + 25%]=11,250 x 12 = 1,35,000 x 14 x 80% | 15,12,000 |
| 2. | Pain and sufferings | 1,00,000 |
| 3. | Extra Nourishment | 50,000 |
| 4. | Attender charges | 30,000 |
| 5. | Transportation Expenses | 30,000 |
| 6. | Loss of Amenities | 1,00,000 |
| | Total | 18,22,000 |
| | Less: 15% Contributory Negligence | 2,73,300 |
| | Compensation Payable | 15,48,700 |



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Aggrieved over the same, the unsuccessful owner of the vehicle has preferred an appeal in C.M.A.No.676 of 2022 challenging the fixing of liability. Aggrieved over the award passed in M.C.O.P.No.936 of 2017, the claimant has preferred an appeal in C.M.A.No.2224 of 2023 seeking enhancement of compensation.

11. The learned counsel appearing for the appellant in C.M.A.No.674 of 2022 and C.M.A.No.676 of 2022 would submit that the offending vehicle was insured with the 4th respondent/insurance company vide policy No.3379/01376751/000/00 for the period from 02.03.2016 to 01.03.2017. The accident took place on 02.03.2016 at about 10.20 a.m and hence, the insurance company is liable to pay the compensation. The accident took place due to the fault on the part of the rider of the two wheeler for hitting from the backside of the Tauras lorry but the Police has registered F.I.R against the driver of the Tauras lorry without any basis. The Tribunal has failed to fix negligence on the part of the rider of the two wheeler. The rider of the two wheeler did not possess any license to drive the two wheeler at the time of accident. In the absence of proof of monthly income, the Tribunal fixed a sum of Rs.9,000/- as notional income of the deceased. The learned counsel further submitted that in the absence of proof of functional disability which leads to loss of earning capacity, the Tribunal ought not to have adopted multiplier method for awarding compensation to the claimant. The Tribunal erred in concluding that the



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offending vehicle was not covered by the insurance policy, since the policy issued on 02.03.2016 at about 12.10 p.m. i.e., 1 hour 50 minutes after the accident. The Tribunal has opined that as per Ex.P2, the offending lorry insured with the 2nd respondent therein vide cover note, however the Tribunal erroneously concluded that the 1st respondent failed to produce the cover note to prove that the vehicle is insured and drawn adverse inference against him. In fact, it is the insurance company which had failed to produce the cover note even though there is mention about the number of same in the policy. To strengthen his contentions, the learned counsel for the appellant has relied upon the judgment of the Hon'ble High Court of Jammu and Kashmir and Ladakh in ***Shafqat Wani v. Universal Sompo General Insurance Co. Ltd. And another [2024 SCC Online J&K 857]*** to show that 'Certificate of Insurance' means a certificate and includes a Cover Note complying with such requirement as may be prescribed. Also relied upon yet another judgment passed by the Hon'ble High Court of Orissa at Cuttack in ***Smt.Renuka Sethi and Others v. Babu Sabu and another [FAO No.480 of 2012 dated 01.02.2013]*** to show that when the cover note was issued and premium received, undoubtedly the liability of the insurer cannot be absolved.

12. The learned counsel appearing for the appellants/claimants would submit that the Tribunal has erroneously decided to deduct 15% out of compensation payable towards contributory negligence on the part of the rider



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of the two wheeler. The Tribunal erred in fixing negligence on the rider of the two wheeler for non-possessing driving license. The Tribunal ought to have relied upon the evidence of RW4 and marked copy of Motor Proposal Form as Ex.R3, which shows the proposal number as M21252454 dated 02.03.2016 submitted in Madurai branch. As per Ex.R2- Insurance Policy marked by RW3 shows that the policy has been signed in lieu of the cover note and proposal on 02.03.2016. Therefore, the Tribunal failed to note that as per section 145(b) of the Motor Vehicle Act, certificate of insurance means a certificate issued by an authorized insurer in pursuance to sub section (3) of section 147 and includes a cover note. As per Ex.P2 and Ex.R3- copy of motor proposal form marked, there is reference of cover note in the policy itself. Therefore, it is proved that the vehicle is insured at the time of accident irrespective of the certificate of insurance on 02.03.2016 at about 12.10 pm. The Tribunal ought to have fixed the notional monthly income of the deceased more than Rs.20,000/- per month, however, the Tribunal has fixed the notional income at Rs.9,000/- p.m., which appears to be very meager. The learned counsel further would submit that the Tribunal ought to have awarded proper compensation under the head functional disability by adopting 100% as loss of earning capacity, since the appellant/claimant had suffered “AK amputation right side” and was a mason by profession. Even though the Medical Board has opined 80% disability, the Claims Tribunal could have treated the loss of earning capacity as 100%.



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13. *Per contra*, learned counsel appearing for the respondent/insurance company would submit that as per the F.I.R, the accident occurred on 02.03.2016 at about 10.20 a.m but the policy was issued to the offending vehicle by the 2nd respondent only on 02.03.2016 at about 12.10 p.m i.e., after 1 hour 50 minutes after the accident. This shows that the offending vehicle was not insured at the time of the accident. Hence, the 2nd respondent/ insurance company is not liable to pay compensation to the claimants. The Tribunal rightly concluded that the offending vehicle was not insured at the time of the accident and rightly held that the 1st respondent/owner of the vehicle is liable to pay compensation to the claimants. Upon consideration of the evidence of RW4- owner of the offending vehicle and the evidence of RW3- official from the Insurance Company, the Tribunal rightly concluded that at the time of accident, the offending vehicle was not having valid insurance policy and drawn adverse inference against the owner of the vehicle since he has not produced either the Insurance Policy or the Cover Note to substantiate his claim that the offending vehicle was having insurance coverage at the time of accident. Therefore, the Tribunal has rightly came to the conclusion that the owner of the vehicle alone is liable to pay compensation and rightly negatived the claim against the insurance company.



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14. This Court has considered the submissions made on either side, perused the materials available on record and has carefully gone through the order passed by the Court below.

15. According to the claimants on 02.03.2016, at about 10.20 a.m, the deceased Thilaga was travelling as a pillion rider with her husband Sakkarai who is the 1st claimant in M.C.O.P.No.885 of 2017 and the claimant in M.C.O.P.No.936 of 2017 in the motor cycle driven by PW1, very carefully and following traffic rules in the extreme left side of the road in soil path towards Government Medical Hospital in Tiruvannamalai on Vellore to Avalurpet road and while they were nearing compound of Government Medical College at by-pass road, at that time the driver of the Tauras lorry, driven in a rash and negligent manner dashed against the two wheeler. Due to the accident, the deceased Thilaga died on the spot itself and the claimant in M.C.O.P.No.926 of 2017 sustained multiple fractures and grievous injuries all over the body. In order to prove the above said fact, the rider of the two wheeler, who is the 1st claimant in M.C.O.P.No.885 of 2017 as well as the claimant in M.C.O.P.No.936 of 2017, himself was examined as PW1. PW1 has deposed about the manner of accident and stated that the accident occurred due to the rash and negligent act of the driver of the Tauras lorry. It is relevant to note that as per Ex.P1-FIR, criminal case was registered against the driver of the Tauras lorry. According to the 1st respondent therein / the owner of the vehicle, the



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accident did not occur due to the rash and negligent act on the part of the driver of the lorry and in fact, the driver of the lorry driven the vehicle in a proper manner, whereas the two wheeler was driven in a rash and negligent manner and suddenly crossed the road without any indication. Hence, the Tauras lorry hit against the two wheeler. In order to prove the above said facts, the driver of the Tauras lorry was examined as RW1. RW1 in his cross examination admitted that he has lodged a complaint against the rider of the two wheeler before the Police and also admitted that the Police has registered F.I.R against him only. During the course of cross examination of PW1, nothing has been elicited against the manner of accident and the accident was occurred only due to the rash and negligent act of the driver of the lorry. PW1 in his cross examination admits that he drove the two wheeler without driving license at the time of accident.

16. It is relevant to note that when a person drives a two wheeler without driving license, there cannot be any presumption they lack skill to drive the vehicle. Section 3 of the Motor Vehicles Act, 1988 deals about the necessity for driving licence and specifies that no person shall drive a motor vehicle in any public place unless he holds an effective driving licence issued to him authorising him to drive the vehicle. Admittedly at the time of accident, without license PW1 drove the two wheeler along with the deceased / his wife as a pillion rider at the time of the accident. Considering the evidence of PW1,



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the Tribunal has found that even under a beneficial legislation, such violation could not be rewarded and decided to deduct 15% towards contributory negligence as out of the compensation amount payable to the claimant by applying the ratio laid down by this Court in ***M.Ramya v. G.Ekambaram and another [2021 (1) TNMAC 451]***. This Court is of the view that fixation of 15% of contributory negligence on the part of the rider of the two wheeler appears to be reasonable and proper and it does not require any interference.

17. With regard to the quantum of compensation arrived by the Tribunal in M.C.O.P.No.885 of 2017, the deceased was a pillion rider and in the absence of proof of negligence on the part of the deceased, deducting 15% of compensation on the ground of the rider of the two wheeler not having the driving license is not proper. In the absence of proof of monthly income of the decease, the Tribunal has fixed a sum of Rs. 9,000/- per month, added 40% towards future prospects, applied the Multiplier "16" and deducted 1/3rd towards personal and living expenses of the deceased, which does not require any interference. The compensation awarded by the Tribunal under various other heads also appears to be reasonable and proper. Thus, the entire award amount arrived by the Tribunal for a sum of Rs.17,62,800/- with regard to fatal case does not require any interference.



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18. With regard to the fixation of 15% contributory negligence on the part of the claimant in M.C.O.P.No.936 of 2017, since the claimant is the rider of the two wheeler and he did not possess valid driving licence at the time of accident, by applying the ratio laid down by this Court in ***M.Ramya case (cited supra)***, the Tribunal fixing 15% contributory negligence on the rider of the two wheeler / claimant in MCOP.No.936 of 2017 does not require any interference.

19. With regard to the liability, the findings of the Tribunal that the accident occurred due to the rash and negligent act of the driver of the lorry alone belongs to the 1st respondent and the driver of the offending vehicle alone is responsible for the accident does not require any interference. A perusal of Ex.P2 - Motor Vehicle Inspection Report reveals that the offending vehicle bearing Regn.No.TN25 J 7620 belongs to the 1st respondent therein and the offending vehicle was insured with the 2nd respondent for the cover note No.M21252454 and also mentioned that the date of expiry of Insurance Policy as on 01.03.2017. According to the appellant in CMA No.674 of 2022 and CMA No.676 of 2022, the offending vehicle was insured with the 2nd respondent at the time of accident and therefore, the 2nd respondent / Insurance Company alone is liable to pay compensation. The 1st respondent himself examined as RW4 and placed Ex.R3 – Copy of the Motor Proposal Form dated 02.03.2016 submitted before the Insurance company at Madurai. The perusal of Ex.R3 shows that RW4 submitted motor vehicle proposal form to the insurance



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company at Madurai on 02.03.2016 for renewal of policy. It is relevant to note that the 1st respondent has not mentioned any date or time in the motor proposal form. As per the F.I.R and the claim petition, the accident occurred on 02.03.2016 at about 10:20 am. According to the Insurance Company, the policy was issued by them only on 02.03.2016 at 12.10 p.m i.e., after 1 hour 50 minutes from the accident and therefore, the offending vehicle was not insured at the time of the accident. In order to prove the above said facts, the insurance company has relied upon the evidence of RW3, an official from the Insurance Company and through him placed the certified copy of Policy Certificate cum Policy Scheduled issued to the offending vehicle on 02.03.2016 at 12.10 midnight under Ex.R2. RW3 deposed that at the time of accident, the offending vehicle was not insured and only after the accident, the Insurance Policy came to be issued. A perusal of Ex.R2 shows that the Insurance Policy was issued on 02.03.2016 at about 12.10 pm i.e., after 1 hour 15 minutes from the accident. It is relevant to note that the 1st respondent has not produced any document except Ex.R2 to prove that he paid premium amount prior to the accident and also not produced any cover note issued by the 2nd respondent / insurance company to prove that the vehicle is insured with the Insurance company at the time of the accident.

20. It is not the case of the appellant in CMA.Nos.674 and 676 of 2022 that the policy was expired on 01.03.2016 at mid night and on 01.03.2016 itself,



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he has submitted the motor proposal form to the Insurance Company for renewal of policy. As per Ex.R3- Motor Proposal Form, it was submitted at Madurai on 02.03.2016, i.e., after the expiry of the policy on 01.03.2016 at midnight. There is no time mentioned in the motor proposal form in Ex.R3. The accident was occurred on 02.03.2016 at about 10.20 am as per F.I.R and other documents.

21. It is relevant to note that the burden of proof as to any particular fact lies on that person who wishes the Court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person. The burden of proof lies on the shoulder of the appellant in CMA.No.674 of 2022 and 676 of 2022 to prove that his vehicle was insured with the 2nd respondent therein / Insurance Company at the time of accident. The appellant/1st respondent therein neither filed the insurance policy nor the cover note to prove that his vehicle was insured with the insurance company at the time of the accident. In the absence of proof of production of either insurance policy nor the cover note to substantiate that the offending vehicle was having insurance coverage at the time of the accident, the Tribunal has rightly come to the conclusion that the offending vehicle namely Tauras lorry bearing Reg.No.TN 25 J 7630 was not insured with the 2nd respondent therein/insurance company at the time of the accident and held that in the absence of valid insurance policy to the offending vehicle at the time of the accident, the burden



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of proof is upon the owner of the vehicle to prove that the vehicle has a valid insurance policy. It is relevant to note that the appellant in CMA.Nos.674 and 676 of 2022 / owner of the vehicle has not placed any proof of mode of payment and time of payment to the insurance company.

22. The claimant in MCOP.No.936 of 2017 appeared before the Medical Board and the Medical Board assessed the disability at 80%. A perusal of Ex.C1 – Disability Certificate shows that the claimant had sustained "AK Amputation right leg" and the claimant has undergone surgery. According to the claimant, he was earning 20,000/- per month before the accident and in absence of proof of monthly income and that the accident took place in the year 2016 and cost of living at that time, the Tribunal has fixed a sum of Rs.9,000/- per month as notional income of the claimant, added 25% towards future prospects, and applied the multiplier 14. Considering the disability of 80% assessed by the medical board and considering the surgeries undergone by the claimant and that the injuries sustained by the claimant affects his day to day activities and the claimant also suffered with functional disability, accordingly the Tribunal adopted multiplier method and awarded compensation for the disability, which does not require any interference. Compensation awarded by the Tribunal under other various heads also appears to be reasonable and proper and does not require any interference.



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23. There are no merits in the appeals preferred by the owner of the vehicle in CMA.No.674 of 2022 and 676 of 2022 and they are liable to be dismissed.

24. In the result,

(a) CMA.No.674 of 2022 and 676 of 2022 are dismissed. No costs.

(b) CMA.No.2223 of 2023 stands partly allowed and the fixation of 15% contributory negligence on the deceased, vide award dated 04.01.2022 in MCOP.No.885 of 2017 is set aside. The claimants are entitled for a total compensation of Rs.17,62,800/- together with interest @ 7.5 % p.a. from the date of claim petition till the date of deposit, within a period of six weeks from the date of receipt of a copy of this judgment.

(c) CMA.No.2224 of 2023 is dismissed, confirming the award dated 04.01.2022 made in MCOP.No.936 of 2017 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Tiruvannamalai. The 2nd respondent / Insurance Company is directed to deposit the compensation awarded by the Tribunal to the tune of Rs.15,48,700 /- together with interest @ 7.5% p.a. from the date of claim petition till the deposit, within a period of six weeks from the date of receipt of this judgment.

(d) On such deposit, the claimants are entitled to withdraw the same, less amount already withdrawn, on filing appropriate application before the Tribunal.



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(e) The manner, mode, apportionment and disbursement of compensation shall be as per the order of the Tribunal.

(f). Consequently, connected miscellaneous petitions are closed.

**11-11-2026**

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

Jvm/*ksk*

To
1.The Motor Accidents Claims Tribunal,
Special Sub Judge,
MCOP Cases, Tiruvannamalai.

2.The Section Officer,
VR Section, High Court, Madras.



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**M.JOTHIRAMAN J.**

Jvm / Ksk

**CMA Nos. 2223 & 2224 of 2023**
**and 674 & 676 of 2022**
**and**
**CMP Nos. 4791 & 4787 of 2022**

**11-11-2026**



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