



C.M.A. NO.2038 OF 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03 / 02 / 2026

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CORAM:
THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A. NO.2038 OF 2023
AND
C.M.P. NO.19841 OF 2023

The Divisional Manager
United India Insurance Co. Ltd.,
Kancheepuram.

Now at
Motor Third Party Claims Hub
No.35, 36 & 37, AR Plaza,
45 Feet Road Ext.,
Balaji Nagar, Pondicherry – 605 013.

... Appellant /
2nd Respondent

Versus

1.J.Shakila @ Thatchayani
W/o. Late S.Janarthanan

2. Naveenraj
S/o. Late S.Janarthanan

3.Radha
W/o. Late Subramania Pillai

1 to 3 are residing at
No.19, Rajmohan Nagar,
Lakshmipuram Extension,
Tambaram West, Chennai – 45.

... Respondents 1-3/
Petitioners

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4.Ilayas Basha
S/o. Abdul Jafar
No.54, Panpet 2nd Street,
Chennai – 600 035.

... 4th Respondent /
1st Respondent

Note: Respondent No.2- Naveenraj is declared as Major and his mother - J.Shakila @ Thatchayani, the first respondent herein is discharged from his guardianship vide Order of this Court dated September 26, 2024 made in C.M.P. No.16624 of 2024 in C.M.A. No.2038 of 2023.

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the Order and Decretal Order dated December 5, 2022 passed in M.C.O.P. No.249 of 2009 on the file of the Subordinate Judge, Motor Accident Claims Tribunal, Tambaram and allow the Appeal.

For Appellant	:	Mr.P.Sankaranarayanan
For Respondents 1-3	:	Mr.J.Ram
For Respondent-4	:	Notice not served (No such person)

J U D G M E N T

(Judgment of the Court was made by R.Sakthivel, J.)

Feeling aggrieved by the Award dated December 5, 2022 passed by
'the Subordinate Judge, Motor Accident Claims Tribunal, Tambaram'

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['Tribunal' for short] in M.C.O.P. No.249 of 2009, the second respondent therein namely – The Divisional Manager, United India Insurance Co. Ltd., Kancheepuram, has preferred this Civil Miscellaneous Appeal.

2. For the sake of convenience, hereinafter, the parties will be referred to as per their array in the Original Petition.

PETITIONERS' CASE

3. The deceased - Janarthanan passed away in an accident that occurred on December 3, 2006 at about 04:00 Hours. The petitioners 1 to 3 are his wife, son and mother respectively.

3.1. On the fateful day, the deceased – Janarthanan was proceeding in a Motor Cycle bearing Registration No.TN-22-T-27 from Madras Export Processing Zone [MEPZ] to Tambaram. When he reached near 'MEPZ Gate', a van bearing Registration No.TN-09-Q-1135 which was proceeding from the opposite direction in a rash and negligent manner at high speed, hit against the Motor Cycle causing an accident

3.2. Due to the aforesaid accident, deceased - Janarthanan sustained multiple injuries and was admitted in Parvathi Ortho Hospital, Chennai -



44 for treatment. Thereafter, he passed away on December 8, 2006 while undergoing treatment.

3.3. At the time of accident, the deceased - Janarthanan was 34 years old. He was the proprietor of Sree Ragavendra Travels and was also engaged in milk business. He was earning a sum of Rs.30,000/- per month.

3.4. With regard to the accident, a First Information Report (F.I.R.) in Crime No.3209 of 2006 for the offences under Sections 279 and 338 of the Indian Penal Code, 1860 was registered on the file of Tambaram Police Station, against the Driver of the aforesaid van.

3.5. First respondent is the owner of the said offending van and the second respondent is the insurer of the said van. According to the petitioners, the accident occurred solely due to the rash and negligent driving of the driver of the van and therefore, both the respondents are jointly and severally liable to compensate the petitioners.

3.6. Accordingly, the petitioners filed the present Claim Petition seeking a compensation of Rs.33,00,000/- (Rupees Thirty Three Lakhs only).



FIRST RESPONDENT'S CASE:

4. First respondent remained absent and was set *ex-parte* by the Tribunal.

SECOND RESPONDENT'S CASE:

5. The second respondent filed a counter statement denying the claim petition averments. It was contended that the Driver of the said van drove the van with due care and caution observing all traffic rules and regulations and he was neither rash nor negligent at the time of accident. There was no fault on the part of the driver of the first respondent's van. The deceased - Janarthanan himself was the tort-feasor. Further, the deceased did not possess valid driving licence at the time of accident. On the above grounds, the second respondent prayed for dismissal of the Original Petition.

TRIBUNAL

6. At trial, on the side of the petitioners, the first petitioner – J.Shakila @ Thatchayani, who is the wife of the deceased - Janarthanan was examined as P.W.1 and one B.Anandh Kumar, who is an ocular witness to the accident was examined as P.W.2 and Ex-P.1 to Ex-P.9 were



marked. On the side of the respondents, neither any witness was examined nor any document was marked.

7. The Tribunal, upon consideration of the oral and the documentary evidence available on record, came to the conclusion that the accident occurred solely due to the rash and negligent driving of the driver of the first respondent's van and the victim passed away due to the accident, while undergoing treatment on December 8, 2006. Since the offending van belonging to the first respondent, was duly insured with the second respondent - insurance company at the material point of time, the Tribunal held that the respondents are jointly and severally liable to pay compensation to the petitioners and awarded a sum of Rs.48,30,312/- (Rupees Forty-Eight Lakhs Thirty Thousand Three Hundred and Twelve only) as compensation to the petitioners. The specific heads under which compensation granted are tabulated hereunder:

S. No.	Head	Amount
1.	Loss of contribution to the family	Rs.43,65,312/-
2.	Loss of Love and Affection	Rs.3,00,000/-
3.	Loss of Estate	Rs.50,000/-
4.	Consortium	Rs.1,00,000/-
5.	Funeral Expenses	Rs.15,000/-
Total Compensation		Rs.48,30,312/-



8. Challenging the quantum of compensation, the second respondent/ insurance company has preferred this Civil Miscellaneous Appeal.

ARGUMENTS

9. Mr.P.Sankaranarayanan, learned Counsel appearing for the appellant / insurance company would submit that the Tribunal failed to appreciate the evidence on record in proper manner. The Tribunal has taken a sum of Rs.24,630/- as monthly income of the deceased, based on Ex-P.8 - Income Tax Return for the Financial Year 2006-2007, which was marked by P.W.1 / first petitioner, who is none other than the wife of the deceased. The said income tax return was filed by her on February 5, 2007, that is to say after the demise of her husband. In Ex-P.8, it is shown that the deceased earned a sum of Rs.11,35,231/- as his gross income for the accounting year that ended on March 31, 2006. The same does not reflect the true figures and is exaggerated. With a view to boost the income, the petitioners have not only inflated the deceased's gross annual income, but have also considerably shown less expenditure under the expenditure heads. Hence, the Tribunal ought not to have taken Ex-P.8 into



consideration for fixing the monthly income of deceased. Further, as evident from Ex-P.9, since the proprietorship firm continues to generate income under the management of the deceased's wife, there is no actual loss of income arising from the demise of the deceased. Further, the Tribunal has not properly deducted income-tax. Accordingly, he prays to allow the present Appeal and to modify and reduce the award amount.

10. *Per contra*, Mr.J.Ram, learned Counsel for the respondents 1 to 3 / petitioners would submit that the accident had occurred due to the rash and negligent driving of the driver of the van owned by first respondent. The deceased was engaged in milk business and was also running a travels agency in the name and style of M/s.Sree Raghavendra Travels, thereby earning a sum of Rs.30,000/- per month. To substantiate the same, the petitioners have filed Ex-P.6 to Ex-P.9 - Income Tax Returns of deceased - Janarthanan. The first respondent's vehicle is insured with the second respondent and on the date of accident, the insurance was in force. Therefore, the second respondent / insurance company is liable to pay compensation to the petitioners. The learned Counsel further submits that the Tribunal, after appreciating the facts and circumstances of the case, rightly awarded just and proper compensation and there is no reason for



this Court to interfere with the same. Accordingly, the learned Counsel prays to dismiss the Civil Miscellaneous Appeal.

DISCUSSION:

11. This Court has considered both sides' submissions and perused the evidence available on record. The Appeal is restricted to assess the quantum of compensation. There is no serious challenge to the aspect of negligence or liability. Therefore, the main and only point that arises for consideration in this Civil Miscellaneous Appeal is whether the quantum of compensation awarded by the Tribunal is just, fair, reasonable and in tune with the Judgments of Hon'ble Supreme Court in *Sarla Verma -vs- Delhi Transport Corporation*, reported in (2009) 6 SCC 121 and *National Insurance Company Limited -vs- Pranay Sethi*, reported in (2017) 16 SCC 680.

12. It is the specific case of the petitioners that the deceased - Janarthanan owned a proprietorship firm in the name and style of M/s.Sree Raghavendra Travels, and he was also engaged in milk business with 20 buffaloes and 10 cows. While there is no evidence available on record to show that the deceased was actually engaged in milk business, the income



tax returns marked on the side of the petitioners prove that he was the proprietor of the aforesaid firm.

13. The income tax returns are marked as Ex-P.5 to Ex-P.9, and this Court has perused each and every one of them. For ease of reference and better appraisal of this Court's discussion *infra*, reference shall be made to the following table containing details about Ex-P.5 to Ex-P.9 :

<i>Exhibit</i>	<i>Income Tax Return filed by</i>	<i>Assessment Year</i>	<i>Gross Income declared in Rupees</i>	<i>Remarks by this Court</i>
Ex-P.5	Deceased	2003-2004	49,240	-
Ex-P.6	Deceased	2004-2005	57,460	-
Ex-P.7	Claimed to be filed by deceased	2005-2006	1,63,120	Self-serving document
Ex-P.8	Deceased's wife	2006-2007	2,95,570	Filed on 05.02.2007 i.e., after demise of deceased
Ex-P.9	Deceased's wife	2007-2008	98,110	-

14. Ex-P.5 pertaining to the assessment year 2003 - 2004 shows that the deceased declared a gross annual income of Rs.49,240/- from the said proprietorship firm, while Ex-P.6 for the assessment year 2004 - 2005 reflects a declared gross annual income of Rs.57,460/- therefrom. Ex-P.5



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and Ex-P.6 contains statement of income and expenses of the said proprietorship firm, as well as an income tax return form containing signature of concerned income tax official with seal and signature of deceased - Janarthanan. This Court finds no issues with these documents. They appear to be genuine.

15. Coming to Ex-P.7 relating to the assessment year 2005 - 2006, it reflects a gross annual income of Rs.1,63,120/- and is stated to have been filed by the deceased. However, a bare reading of Ex-P.7 shows that it is nothing more than a statement setting out the income and expenses of the said proprietorship firm, without any signature whatsoever. There is no seal of the Income Tax Department, no signature of any income tax official, no signature of any auditor, and in fact, no signature of the deceased to establish that it was filed by him. Unlike Ex-P.5 and Ex-P.6, no income tax form is found in Ex-P.7. These aspects clearly indicate that Ex-P.7 is a fabricated and self-serving document, probably let in as evidence in an attempt to make it look like the business of the deceased was growing in a steady manner even during the lifetime of the deceased and thereby support the higher income stated in Ex-P.8. Therefore Ex-P.7 cannot be taken into account or relied upon to fix the income of the deceased.



16. Ex-P.8 is the document relied on by the Tribunal to fix the monthly income of the deceased at Rs.24,630/-. It pertains to the assessment year 2006 - 2007 and the accident occurred during the same period. But it has been filed declaring a gross annual income of Rs.2,95,570/-, posthumously by the deceased's wife / first petitioner on February 5, 2007. At this point, this Court would like to remind itself of the Judgment of Hon'ble Supreme Court in **Nidhi Bhargava -vs- National Insurance Co. Ltd.**, reported in **2025 SCC OnLine SC 872**, wherein it was held as follows:

'12. Just because on the date of the accident i.e., 12.08.2008, the Return for the Assessment Year 2008-2009 had not been filed, cannot disadvantage the appellants, for the reason that the period for which the Return is to be submitted covers the period starting 1st of April, 2007 and ending 31st March, 2008. Thus, for obvious reasons, the Return would be only for the period 01.04.2007 to 31.03.2008, and date of submission would be post-31.03.2008. No income earned beyond 31.03.2008 would reflect in the Income Tax Return for the Assessment Year 2008-2009. To reject the Return on the sole ground of its submission after the date of accident alone, in our considered view, cannot be legally sustained.'



17. However, the income of the deceased from the said proprietorship firm as stated in Ex-P.8 appears to be wholly disproportionate when juxtaposed with Exs-P.5 and P.6. The income reflected in Ex-P.8 is about six times higher than the income range discernible from Exs-P.5 and P.6 and hence, Ex-P.8 warrants closer scrutiny. To be noted, as stated *supra*, Ex-P.7 declaring Rs.1,63,120/- as annual gross income cannot be relied upon at all for whatsoever purpose while determining the deceased's income. While it would be irrational to assume that business income would be often static or that any growth therein would be gradual, Court must be careful and cautious while considering an income tax return filed posthumously, for the reason that there is every possibility for the income stated therein to be inflated in order to obtain a higher compensation. While the income being highly disproportionate may not by itself affect the credibility of Ex-P.8, when considered along with the following facts, certain doubts arise regarding its credibility and truthfulness. Firstly, no basis or reasons have been assigned, nor can any be culled out from the pleadings, with respect to the disproportionate rise in income in Ex-P.8 compared to the income tax returns for the preceding years. Nor is there any supporting evidence to



even suggest the same. Further, the petitioners have not mentioned the exact nature of business carried out under the said proprietorship firm.

There is no information about the vehicles, if any, owned or operated by the said proprietorship firm as well, which would ideally be the primary assets for a travel agency. When so, travel agency could mean even a ticket booking agency. There is no clarity in this regard. Further, as discussed above, Ex-P.7 shows an attempt to inflate the income of the deceased and obtain higher compensation. Under such circumstances, this Court is of the view that the Tribunal is not justified in relying on Ex-P.8 to fix the income of the deceased at Rs.24,630/- per month.

18. At this juncture, reference shall be made to Judgment of Hon'ble Supreme Court in **Sayar -vs- Ramkaran** dated November 7, 2025 [Civil Appeal arising out of SLP(C) No. 24501/2025], wherein Hon'ble Supreme Court after referring to **Nidhi Bhargava's Case** [cited *supra*], did not rely on the posthumously filed income tax return owing to the doubts regarding its genuineness and went on to fix the annual income of the deceased at Rs.1,00,000/- deeming it to be just and fair. Further, the Hon'ble Supreme Court observed that, while a business cannot be assumed to be static, income tax returns for the preceding financial years serve as a fundamnetal



benchmark while assessing the deceased's income and must be scrutinised carefully. Relevant extract is hereunder:

'12. What flows from Nidhi Bhargava (supra) is that the Income Tax Returns filed after the accident/death can also be taken into consideration for calculation of income to award compensation. However, having due regard for the Tribunal's well-placed doubts, in so far as returns filed for the relevant year, we take a different approach. In the instant case, it cannot be simply assumed that there is no profit accruing from the business of the deceased at the time of the accident. To adopt such a presumption would be contrary to the settled principles guiding the assessment of compensation. Rather, the returns for the preceding year or years must be taken as a foundational benchmark, subject to careful judicial examination, recognizing that business profits are seldom static and often exhibit a progressive growth trajectory. The exercise thus calls for a fair and reasonable assessment, grounded in available evidence, of the financial benefits that the deceased would have justifiably earned but for the untimely accident. In our considered view, in order to award just and fair compensation, the annual income of the deceased is re-assessed at Rs.1,00,000/- per annum.
...'



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19. Reference shall also be made to Judgment of Hon'ble Supreme Court in ***K Ramya -vs- National Insurance Co. Ltd.***, reported in **2022 SCC OnLine SC 1338**, wherein *inter-alia* after referring to ***Ningamma -vs- United India Insurance Co. Ltd.***, reported in **(2009) 13 SCC 710**, it was held as follows:

'12. ... Motor Vehicles Act of 1988 is a beneficial and welfare legislation that seeks to provide compensation as per the contemporaneous position of an individual which is essentially forward-looking. Unlike tortious liability, which is chiefly concerned with making up for the past and reinstating a claimant to his original position, the compensation under the Act is concerned with providing stability and continuity in peoples' lives in the future. ...'

20. As stated *supra*, Ex-P.5 and Ex-P.6, for the assessment years 2003-2004 and 2004-2005, show an annual gross income of Rs.49,240/- and Rs.57,460/- respectively. The accident occurred on December 3, 2006. This would mean that the deceased on an average was roughly earning Rs.5,000/- per month, in the last two years prior to the accident. However,



having due regard to *Sayar's Case* and *Ramya's Case* [cited *supra*], considering the size of the deceased's family, bearing in mind that Section 166 of Motor Vehicles Act, 1988 is a social beneficial legislation and also the principle of just and fair compensation, this Court is of the view that the deceased - Janarthanan would have earned not less than Rs.10,000/- per month, which would be Rs.1,20,000/- annually, in order to take care of his family, and inclined to fix the same as the income of the deceased notionally.

21. Learned Counsel for the insurance company would point to Ex-P.9 declaring an annual gross income of Rs.98,110/- and submit that even after the demise of the deceased, the said proprietorship firm, now run by his wife, is generating income and hence, there is no actual loss of income articulable to the demise of the deceased. The mere continuation of a business does not negate the loss caused by the death of its proprietor to his family. Managing and sustaining a business requires continuous effort, time and often personal involvement. The deceased's wife, by undertaking the responsibility of running the firm, is necessarily foregoing her potential avenues of employment or income that she could otherwise have pursued. Though the said proprietorship firm is still generating some income, there is still loss of dependency attributable to the demise of deceased.



Therefore, the income presently derived from the firm cannot be treated as proof that no financial loss has occurred due to the demise of the deceased.

22. As stated *supra*, the monthly income of the deceased - Janarthanan is taken at Rs.10,000/-. The age of the deceased as per Ex-P.2 - Post Mortem Certificate is 35 years as on the date of accident, and his date of birth [March 21, 1971] as mentioned in Ex-P.6 - Income Tax Return for the Assessment Year 2005-2006 substantiates the same. As per the dictum laid down by the Hon'ble Supreme Court in ***Pranay Sethi's Case*** [cited *supra*], the future prospects is fixed at 40%, which comes to Rs.4,000/-. The monthly income of deceased with future prospects added comes to Rs.14,000/- (Rs.10,000/- + Rs.4,000/-). Thus, the annual income with future prospects comes to Rs.1,68,000/-.

23. The accident occurred on December 3, 2006 and he passed away on December 8, 2006. The relevant financial year is 2006-2007 and the relevant assessment year is 2007-2008. Relevant income tax slab rates are as tabulated below:

Income Tax Slab	Income Tax Rate	Cess
Upto Rs.1,00,000/-	Nil	Nil
Rs.1,00,000/- to Rs.1,50,000/-	10%	2%
Rs.1,50,000/- to Rs.2,50,000/-	20%	2%
Above Rs.2,50,000/-	30%	2%



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24. As per the income tax slabs applicable for the relevant assessment year, income tax payable on the annual income of Rs.1,68,000/- along with deductions towards Cess, is Rs.7,600/-. After deducting Income Tax from the annual income, the income is Rs.1,60,400/-.

25. From the aforesaid amount, one-third deduction has to be made towards the personal expenses of the deceased, which comes to Rs.53,466/-. Deducting the said amount, the annual income would be Rs.1,06,933/-.

26. Appropriate multiplier as per the judgment of the Hon'ble Supreme Court in *Sarla Verma's Case* is '16'. Applying the multiplier of 16, the loss of dependency would be Rs.22,10,928/- [Rs.1,06,933/- X 16]. The calculation under the head of loss of income / dependency can be tabulated as hereunder:

S.No.	Description	Calculation	Amount (Rs.)
1	Monthly Income	-	10,000/-
2	Adding Future Prospects @ 40%	$10,000 + (10,000 \times 40\%) = 14,000$	14,000/-
3	Annual Income	$14,000 \times 12 = 1,68,000$	1,68,000/-
4	Less: Income Tax Deduction with Cess	$1,68,000 - 8,672 = 1,59,328/-$	1,59,328/-
5	Less: Personal Expenses (1/3rd)	$1,59,328 - 53,109 = 1,06,219/-$	1,06,219/-
6	Applying Multiplier of 16	$1,06,219 \times 16 = 16,99,504/-$	16,99,504/-
Loss of income / dependency		Rs.16,99,504/-	



27. The Tribunal has erred in awarding compensation under both loss of love and affection and consortium simultaneously. It is well settled in law that once compensation for consortium is granted, a separate award for loss of love and affection should not be made, as this would result in double compensation for the same cause. Accordingly, this Court sets aside the compensation awarded under the head of loss of love and affection.

28. Further, as per *Pranay Sethi's case* (cited *supra*), the compensation under the head of 'loss of estate' is fixed at Rs.15,000/- and 'loss of consortium' is fixed at Rs.40,000/- per dependant. As per *Pranay Sethi's Case*, 10 % enhancement every three years from the date of Judgment therein (October 31, 2017) is to be given to the amounts specified therein as fixed compensation under conventional heads. For the said purpose, only the date of claim petition is to be considered and not the date of Award, for the reason that the claimant(s) would be receiving interest from the date of claim petition on the entire compensation amount including the compensation under conventional heads and awarding enhancement with reference to date of Award would not be fair. Hence, in this case, though the Award is passed in December 5, 2022, 10%



enhancement of the fixed amounts under conventional heads is not necessary, as the Claim Petition was filed much before the Judgment in *Pranay Sethi's Case*. While the compensation awarded by the Tribunal under the conventional head of funeral expenses is correct, that under loss of estate is exorbitant and not supported by any reason and that towards consortium is less. They shall be re-quantified by this Court as fixed in *Pranay Sethi's Case*.

29. Further, the Tribunal failed to award compensation under the head of transportation expenses. This Court is inclined to award Rs.15,000/- under the said head.

30. Thus, the compensation as modified by this Court is tabulated below:

<i>S. No</i>	<i>Head</i>	<i>Amount awarded by the Tribunal</i>	<i>Amount now re-quantified by this Court</i>
1.	Loss of income / dependency	Rs.43,65,312/-	Rs.16,99,504/-
2.	Loss of Love and Affection	Rs.3,00,000/-	-
3.	Loss of Estate	Rs.50,000/-	Rs.15,000/-
4.	Consortium @ Rs.40,000/- each	Rs.1,00,000/-	Rs.1,20,000/-
5.	Funeral Expenses	Rs.15,000/-	Rs.15,000/-
6.	Transportation Expenses	-	Rs.15,000/-
Total Compensation		Rs.48,30,312/-	Rs.18,64,504/-



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31. Thus, the petitioners are entitled to a sum of **Rs.18,64,504/-** as compensation from the second respondent / insurance company.

CONCLUSION

32. In view of the foregoing narrative, the appellant / insurance company is directed to deposit the **reduced award amount of Rs.18,64,504/- (Rupees Eighteen Lakhs Sixty-Four Thousand Five Hundred and Four only)** along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, to the credit of M.C.O.P. No.249 of 2009 on the file of Subordinate Judge, Motor Accidents Claims Tribunal, Tambaram, less the amount if any already deposited, within a period of two (2) months from the date of receipt of a copy of this Judgment. On such deposit being made, the respondents 1 to 3/petitioners are entitled to withdraw the same, by filing proper application. Apportionment shall be proportionate to the apportionment made by the Tribunal. In all other aspects, the Award of the Tribunal shall hold good.



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33. In fine, this Civil Miscellaneous Appeal is allowed in part.

Considering the facts and circumstances, there shall be no order as to costs.

Consequently, connected Civil Miscellaneous Petition is closed.

[N.S.K., J.]

[R.S.V., J.]

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Index : Yes
Neutral Citation : Yes
Speaking Order : Yes
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To

The Subordinate Judge
Motor Accident Claims Tribunal
Tambaram.



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