



C.M.A(MD)Nos.747 & 753 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2026

CORAM:

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**C.M.A(MD)Nos.747 & 753 of 2025
and
C.M.P(MD)Nos.11924 & 12075 of 2025**

1.C.M.A(MD)No.747 of 2025:

The Manager,
SBI General Insurance Company Limited,
78/4, S.S. Tower,
2nd Floor, Bypass Road,
Madurai – 10.

... Appellant/2nd Respondent

-VS-

1.Tamil Selvi

Minor.Kumar (died)

2.Minor.Muvetha

... Respondents 1 & 2/
Petitioners 1 & 3

3.M.Petchiammal

... 3rd Respondent/1st Respondent

1/28



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(R – 2 minor represented through his mother & guardian the first respondent).

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order made in M.C.O.P.No.1647 of 2023 dated 10.03.2025 on the file of the Motor Accident Claims Tribunal cum Special District Court to deal with MCOP Cases, Madurai.

For Appellant : Mr.N.Shyllappakalyan

For RR 1 & 2 : Mr.D.S.Haroon Rasheed

For R – 3 : No appearance

2.C.M.A(MD)No.753 of 2025:

The Manager,
SBI General Insurance Company Limited,
78/4, S.S. Tower,
2nd Floor, Bypass Road,
Madurai – 10. ... Appellant/2nd Respondent

-VS-

1.Kannan ... 1st Respondent/
Petitioner

2.M.Petchiammal ... 2nd Respondent/1st Respondent



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order made in M.C.O.P.No.1648 of 2023 dated 10.03.2025 on the file of the Motor Accident Claims Tribunal cum Special District Court to deal with MCOP Cases, Madurai.

For Appellant : Mr.N.Shyllappakalyan

For R - 1 : Mr.D.S.Haroon Rasheed

For R – 2 : No appearance

COMMON JUDGMENT

**(Judgment of the Court was delivered by
G.K.ILANTHIRAIYAN, J.)**

C.M.A(MD)No.747 of 2025 has been filed as against the award passed in M.C.O.P.No.1647 of 2023 dated 10.03.2025 on the file of the Motor Accident Claims Tribunal cum Special District Court to deal with MCOP Cases, Madurai, thereby awarding compensation to the tune of Rs.31,03,672/- in favour of the claimants and directed the appellant herein to pay the entire



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compensation and then recover the same from the third respondent herein/owner of the vehicle.

2.C.M.A(MD)No.753 of 2025 has been filed as against the award passed in M.C.O.P.No.1648 of 2023 dated 10.03.2025 on the file of the Motor Accident Claims Tribunal cum Special District Court to deal with MCOP Cases, Madurai, thereby awarding compensation to the tune of Rs.1,06,000/- in favour of the claimants and directed the appellant herein to pay the entire compensation and then recover the same from the second respondent herein/owner of the vehicle.

3.For the sake of convenience and brevity, the parties hereinafter will be referred to as per their status / ranking in C.M.A(MD)No.747 of 2025.



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4.In both cases, the claimants filed claim petitions on the ground that, on 19.08.2022, at about 20.20 hours in Mudukulathar, near the Marketing Society building, the deceased and the injured were standing on the northern side of the road when the motorcycle bearing Registration No.TN-65-BX-3376 came from western side towards eastern side in a rash and negligent manner and dashed against the deceased and the injured. Due to the sudden impact, both sustained multiple grievous injuries. Suresh Kumar died due to the injuries sustained and the claimant/Kannan, was treated as an outpatient till 04.09.2022. Thereafter, he was admitted at the Government Medical College Hospital, Ramnad as an inpatient from 05.09.2022 and was discharged on 20.09.2022.

5.The appellant, who is being the insurer of the third respondent's vehicle, filed a counter stating that the accident did not occur due to the rash and negligent driving of the offending vehicle, but solely due to the rash and negligent driving of the deceased.



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Further, the third respondent's rider of the motorcycle did not possess a valid licence and as such, the appellant is not liable to pay any compensation.

6.In order to prove their claim, they had examined P.W.1 to P.W.3 and marked Exs.P1 to P15. On the side of the respondents, they examined R.W.1 and R.W.2 and marked Ex.R.1 to Ex.R.3 and also marked Ex.C.1.

7.On perusal of the oral and documentary evidence, the Tribunal concluded that the vehicle, which was insured with the appellant, caused the accident due to the rash and negligent driving of the rider. As such, the appellant, being the insurer of the vehicle, is liable to pay compensation. Although the driver of the third respondent did not possess a valid driving license, the Tribunal awarded compensation payable by the appellant, and thereafter, the appellant can recover the same from the third respondent. Aggrieved



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by the same, both appeals have been filed by the insurer of the third respondent's vehicle.

8.The learned counsel appearing for the appellants submitted that after the amendment to the Motor Vehicles Act in 2019, the proviso clause under Section 150 was deleted, and as such, there is no question of pay and recovery. He further pointed out that the proviso to Section 149 was also deleted in the amendment, and therefore, there is no question of discharging any liability of a person covered under the policy, which could thereafter be recoverable. However, without considering the above, the Trial Court directed the appellant to pay compensation and recover the same from the owner of the vehicle.

9.The learned counsel appearing for the claimants submitted that the amendment came into force only with effect from 01.04.2022, whereas the accident took place before the amendment.



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On that date, the proviso to Section 149 of the Motor Vehicles Act was still in effect, and as such, the appellant was rightly directed to pay compensation, which can be recoverable from the owner of the vehicle.

10.The only point arising in this appeal is whether the appellant, being the insurer of the vehicle, is liable to pay compensation, and whether it can be recovered from the owner of the vehicle.

11.It was proved that the accident occurred solely due to the negligence on the part of the vehicle owned by the third respondent, which was insured with the appellant. The vehicle owned by the third respondent was duly insured with the appellant. However, the rider of the third respondent's vehicle did not have a valid driving license to ride the motorcycle. Therefore, the appellant stated that it is not liable to pay any compensation. Although the



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accident occurred on 19.08.2022, after the amendment, the insurance policy for the third respondent's vehicle was issued before the date of the amendment. Furthermore, it is relevant to compare the provisions between Section 96 of the Motor Vehicles Act, 1939, Section 149 of the Motor Vehicles Act, 1988, and Section 150 of the Motor Vehicles (Amendment) Act, 2019, which came into effect on 01.04.2022, as follows:

“Section 96 of the Motor Vehicles Act, 1939:

“96. Duty of insurers to satisfy Judgments against person insured in respect of third-party risks.

(1) If, after a certificate of insurance has been issued under sub-section (4) of section 95 in favour of the person by whom judgments against persons insured in respect of third party risks, a policy has been effected, judgment in respect of any such liability as is required to be covered by a policy under clause (b) of sub-section (1) of section 95 (being a liability covered by the terms of the policy) is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy, the insurer shall, subject to the provisions of this section, pay to the person entitled to the benefit of the decree any sum not exceeding the sum assured



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payable thereunder, as if he were the judgment debtor, in respect of the liability, together with any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments.

(2) No sum shall be payable by an insurer under subsection (1) in respect of any judgment unless before or after the commencement of the proceedings in which the judgment is given the insurer had notice through the Court of the bringing of the proceedings, or in respect of any judgment so long as execution is stayed thereon pending an appeal; and an insurer to whom notice of the bringing of any such proceedings is so given shall be entitled to be made a party thereto and to defend the action on any of the following grounds, namely:-

(a) that the policy was cancelled by mutual consent or by virtue of any provision contained therein before the accident giving rise to the liability, and that either the certificate of insurance was surrendered to the insurer or that the person to whom the certificate was issued has made an affidavit stating that the certificate has been lost or destroyed, or that either before or not later than fourteen days after the happening of the accident the insurer has commenced proceedings for cancellation of the certificate after compliance with the provisions of section 105; or

(b) that there has been a breach of a specified condition of the policy, being one of the following conditions, namely:-

(i) a condition excluding the use of the vehicle-



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(a) for hire or reward where the vehicle is on the date of the contract of insurance a vehicle not covered by a permit to ply for hire or reward, or

(b) for organised racing and speed testing, or 114A

(c) for a purpose not allowed by the permit under which the vehicle is used, where the vehicle is [a transport vehicle] [Substituted by Act 58 of 1960, section 3 and Schedule II, for 'a public service vehicle or a goods vehicle' (w.e.f. 26.12.1960).], or

(d) without side-car being attached, where the vehicle is a motor cycle; or

(ii) a condition excluding driving by a named person or persons or by any person who is not duly licensed, or by any person who has been disqualified for holding or obtaining a driving licence during the period of disqualification; or

(iii) a condition excluding liability for injury caused or contributed to by conditions of war, civil war, riot or civil commotion; or

(c) that the policy is void on the ground that it was obtained by the non-disclosure of a material fact or by a representation of fact which was false in some material particular.

(2A) Where any such judgment as is referred to in sub-section (1) is obtained from a Court in a reciprocating country and in the case of a foreign judgment is, by virtue of the provisions of section 13 of the Code of Civil Procedure, 1908, (5 of 1908) conclusive as to any matter adjudicated upon by it, the



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insurer (being an insurer registered under the Insurance 1 Act, 1938, (4 of 1938) and whether or not he is registered under the corresponding law of the reciprocating country) shall be liable to the, person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1), as if the judgment were given by a, Court in India.

Provided that no sum shall be payable by the insurer in respect of any such judgment unless, before or after the commencement of the proceedings in which the judgment is given, the insurer had notice through the Court Concerned of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding law of the reciprocating country, to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2).] [Substituted by section 71, Act 100 of 1956, for the words 'shall apply to any motor vehicle or to any driver of a motor vehicle to whom any rules made under clause (b) or clause (c) of sub-section (1) apply' (w.e.f. 16-2-1957).]

(3) Where a certificate of insurance has been issued under sub-section (4) of section 95 to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby by reference to any conditions other than those in clause (b) of sub-section (2) shall, as respects such liabilities as are required to be covered by a policy under clause (b) of sub-section (1) of section 95, be of no effect:



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Provided that any sum paid by the insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this sub-section shall be recoverable by the insurer from that person.

Section 149 of the Motor Vehicles Act, 1988:

149. Duty of insurers to satisfy judgements and awards against persons insured in respect of third-party risks.

(1) If, after a certificate of insurance has been issued under sub-section (3) of section 147 in favour of the person by whom a policy has been effected, judgment or award in respect of any such liability as is required to be covered by a policy under clause (b) of sub-section (1) of section 147 (being a liability covered by the terms of the policy) or under the provisions of section 163A is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy, the insurer shall, subject to the provisions of this section, pay to the person entitled to the benefit of the decree any sum not exceeding the sum assured payable thereunder, as if he were the judgment debtor, in respect of the liability, together with any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments.

(2) No sum shall be payable by an insurer under sub-section (1) in respect of any judgment or award unless, before



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the commencement of the proceedings in which the judgment or award is given the insurer had notice through the Court or, as the case may be, the Claims Tribunal of the bringing of the proceedings, or in respect of such judgment or award so long as execution is stayed thereon pending an appeal; and an insurer to whom notice of the bringing of any such proceedings is so given shall be entitled to be made a party thereto and to defend the action on any of the following grounds, namely—

(a) that there has been a breach of a specified condition of the policy, being one of the following conditions, namely—

(i) a condition excluding the use of the vehicle—

(a) for hire or reward, where the vehicle is on the date of the contract of insurance a vehicle not covered by a permit to ply for hire or reward, or

(b) for organised racing and speed testing, or

(c) for a purpose not allowed by the permit under which the vehicle is used, where the vehicle is a transport vehicle, or

(d) without side-car being attached where the vehicle is a motor cycle; or

(ii) a condition excluding driving by a named person or persons or by any person who is not duly licensed, or by any person who has been disqualified for holding or obtaining a driving license during the period of disqualification; or

(iii) a condition excluding liability for injury caused



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or contributed to by conditions of war, civil war, riot or civil commotion; or

(b) that the policy is void on the ground that it was obtained by the non- disclosure of a material fact or by a representation of fact which was false in some material particular.

(3) Where any such judgment as is referred to in sub-section (1) is obtained from a Court in a reciprocating country and in the case of a foreign judgment is, by virtue of the provisions of section 13 of the Code of Civil Procedure, 1908 (5 of 1908) conclusive as to any matter adjudicated upon by it, the insurer (being an insurer registered under the Insurance Act, 1938 (4 of 1938) and whether or not he is registered under the corresponding law of the reciprocating country) shall be liable to the person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1), as if the judgment were given by a Court in India:

Provided that no sum shall be payable by the insurer in respect of any such judgment unless, before the commencement of the proceedings in which the judgment is given, the insurer had notice through the Court concerned of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding law of the reciprocating country, to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2).



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(4) Where a certificate of insurance has been issued under sub-section (3) of section 147 to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby by reference to any condition other than those in clause (b) of sub-section (2) shall, as respects such liabilities as are required to be covered by a policy under clause (b) of sub-section (1) of section 147, be of no effect:

Provided that any sum paid by the insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this sub-section shall be recoverable by the insurer from that person.

Section 150 of the Motor Vehicles (Amendment) Act, 2019:

150. Duty of insurers to satisfy judgements and awards against persons insured in respect of third-party risks.

(1) If, after a certificate of insurance has been issued under sub-section (3) of section 147 in favour of the person by whom a policy has been effected, judgment or award in respect of any such liability as is required to be covered by a policy under clause (b) of sub-section (1) of section 147 (being a liability covered by the terms of the policy) or under the provisions of section 164 is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy, the insurer shall, subject to the provisions of this section,



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pay to the person entitled to the benefit of the award any sum not exceeding the sum assured payable thereunder, as if that person were the decree holder, in respect of the liability, together with any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments.

(2) No sum shall be payable by an insurer under subsection (1) in respect of any judgment or award unless, before the commencement of the proceedings in which the judgment or award is given the insurer had notice through the court or, as the case may be, the Claims Tribunal of the bringing of the proceedings, or in respect of such judgment or award so long as its execution is stayed pending an appeal; and an insurer to whom notice of the bringing of any such proceedings is so given shall be entitled to be made a party thereto, and to defend the action on any of the following grounds, namely:—

(a) that there has been a breach of a specified condition of the policy, being one of the following conditions, namely:—

(i) a condition excluding the use of the vehicle—

(a) for hire or reward, where the vehicle is on the date of the contract of insurance a vehicle not covered by a permit to ply for hire or reward; or

(b) for organised racing and speed testing; or

(c) for a purpose not allowed by the permit under which the



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vehicle is used, where the vehicle is a transport vehicle; or

(d) without side-car being attached where the vehicle is a two-wheeled vehicle; or

(ii) a condition excluding driving by a named person or by any person who is not duly licenced or by any person who has been disqualified for holding or obtaining a driving licence during the period of disqualification or driving under the influence of alcohol or drugs as laid down in section 185; or

(iii) a condition excluding liability for injury caused or contributed to by conditions of war, civil war, riot or civil commotion; or

(b) that the policy is void on the ground that it was obtained by nondisclosure of any material fact or by representation of any fact which was false in some material particular; or

(c) that there is non-receipt of premium as required under section 64VB of the Insurance Act, 1938.

(3) Where any such judgment or award as is referred to in sub-section (1) is obtained from a court in a reciprocating country and in the case of a foreign judgment is, by virtue of the provisions of section 13 of the Code of Civil Procedure, 1908 conclusive as to any matter adjudicated upon by it, the insurer (being an insurer registered under the Insurance Act, 1938 and whether or not that person is registered under the corresponding law of the reciprocating country) shall be liable



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to the person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1), as if the judgment or award were given by a court in India:

Provided that no sum shall be payable by the insurer in respect of any such judgment or award unless, before the commencement of the proceedings in which the judgment or award is given, the insurer had notice through the court concerned of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding law of the reciprocating country, to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2).

(4) Where a certificate of insurance has been issued under sub-section (3) of section 147 to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby, by reference to any condition other than those in sub-section (2) shall, as respects such liabilities as are required to be covered by a policy under clause (b) of sub-section (1) of section 147, be of no effect.

Provided that any sum paid by the insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this sub-Section shall be recoverable by the insurer from that person.”



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12.Thus, it is clear that the amendment to Section 150 of the Motor Vehicles Act came into effect on 01.04.2022. As per the amendment, the proviso states that any sum paid by the insurer in or towards the discharge of any liability of a person covered by the policy, by virtue only of this sub-section, shall be recoverable by the insurer of that person.

13.This proviso now applies as per the amendment effective from 01.04.2022. Therefore, the question is whether the insurer is liable to pay compensation and whether it can subsequently be recovered from the owner. The proviso was clear under the pre-amendment Motor Vehicles Act (before the 2019 Amendment) that the insurer is liable to pay compensation, which can be recovered from the vehicle owner. However, under the Motor Vehicles (Amendment) Act, 2019, if the driver of the insured vehicle was driving under the influence of alcohol or drugs, or if there is non-receipt of the premium as required under Section 64-VB of the



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Insurance Act, 1938, or if the rider/driver does not possess a valid driving license, the insurer is not liable to pay any compensation, and there is no question of pay and recovery.

14.It is also relevant to rely upon the Judgment of this Court in ***C.M.A.Nos.979 and 1382 of 2016, dated 26.09.2016 [Anandha Lakshmi and another Vs. Tamil Nadu State Transport Corporation]***, in which this Court held that the Courts have consistently held that what has been specifically excluded by legislation in a provision cannot be imported into the Section by decisions of Courts. Therefore, it is a well recognised rule of interpretation of statutes that the expressions used in the statute, should ordinarily be understood, in which, they harmonise with the object of the statute, to effectuate the object of the legislature and the Court should adopt an object oriented approach, keeping in mind the language employed in the statute.



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15. When the particular provision of Section 149 of the Motor Vehicles Act, 1988, was deleted by way of amendment in Section 150 of the Motor Vehicles (Amendment) Act, 2019, with effect from 01.04.2022, the pay and recovery cannot be ordered by the Courts. When the legislature specifically deleted the proviso for pay and recovery, it is the duty of the Court to act in accordance with the intent of the legislature. Further, it is a well-settled principle in law that the Court cannot read anything into a statutory provision that is plain and unambiguous. A statute is an edict of the legislature.

16. In this regard, the Hon'ble Supreme Court of India in the case of ***Shiv Shakti Co-operative Housing Society, Nagpur Vs. Swaraj Developers and others [2003 SC 2434]***, wherein it is held as follows:

“In Dr. R. Venkatchalam and Ors. etc. v. Dy. Transport Commissioner and Ors. etc. (AIR 1977 SC 842), it was observed that Courts must avoid the danger of apriori determination of the meaning of a provision based



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on their own pre-conceived notions of ideological structure or scheme into which the provision to be interpreted is somewhat fitted. They are not entitled to usurp legislative function under the guise of interpretation.

While interpreting a provision the Court only interprets the law and cannot legislate it. If a provision of law is misused and subjected to the abuse of process of law, it is for the legislature to amend, modify or repeal it, if deemed necessary. (See Commissioner of Sales Tax, M.P. v. Popular Trading Company, Ujjain (2000 (5) SCC 515). The legislative casus omissus cannot be supplied by judicial interpretative process.”

17.The above Judgment is squarely applicable to the case on hand. Hence, a casus omissus ought not to be created by interpretation, save in some case of strong necessity. Where, however, a casus omissus does really occur, either through the inadvertence of the legislature, or on the principle quod semel aut bis existit proetereunt leges, the rule is that the particular case,



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thus left unprovided for, must be disposed of according to the law as it existed before such statute - *Casus omissus et oblivioni datus dispositioni communis juris relinquitur*; "a casus omissus," observed Buller, J. in *Jones v. Smart* (1 T.R. 52), "can in no case be supplied by a court of law, for that would be to make laws."

Therefore, the Motor Accidents Claims Tribunal ought not to have ordered pay and recovery against the insurer while the popular conditions violated by the insured vehicle.

18. In the case on hand, it is admitted that the accident occurred on 19.08.2022. Though the amendment came into effect on 01.04.2022, which deleted the proviso under Section 150 of the Motor Vehicles Act and provided for pay and recovery by the insurer, the insurance policy under which the claim was made by the claimants was issued before the amendment, i.e., on 30.03.2022. The policy was valid until 29.03.2027. Therefore, the provisions of the



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Motor Vehicles Act apply as of the date of issuance of the policy, and as such, the Tribunal rightly awarded compensation payable by the appellant and also permitted recovery from the third respondent. Hence, this Court finds no infirmity or illegality in the order passed by the Tribunal.

19.In fine, the awards passed in M.C.O.P.Nos.1647 and 1648 of 2023, dated 10.03.2025 on the file of the Motor Accident Claims Tribunal cum Special District Court, Madurai are confirmed. Both the Civil Miscellaneous Appeals are dismissed. The appellant is directed to deposit the entire award amount with interest and costs as awarded by the Tribunal, less the amount already deposited, to the credit of the claim petitions, within a period of six weeks from the date of receipt of a copy of this judgment, if not already deposited. On such deposit, the first respondent/major claimant in both the appeals are permitted to withdraw their respective shares with proportionate interest and costs by filing formal permission petition

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before the Tribunal. The share of the second respondent/minor claimant in C.M.A(MD)No.747 of 2025 shall be deposited in a Nationalised Bank in a fixed deposit until she attains majority. The interest accruing on such deposit is permitted to be withdrawn by the 1st respondent/mother of the minor claimant in C.M.A(MD)No.747 of 2025, once in three months directly from the bank. No costs. Consequently, connected Miscellaneous Petitions are closed.

**[G.K.I.J.,] & [R.P.J.,]
06.02.2026**

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

- 1.The Motor Accident Claims Tribunal cum
Special District Court,
Madurai.
- 2.The Record Keeper (Vernacular Records),
Madurai Bench of Madras High Court,
Madurai.



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G.K. ILANTHIRAIYAN, J.
AND
R. POORNIMA, J.

ps

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