

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 11.05.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Tr.CMP.Nos.282 to 297 of 202

M/s. Cholamandalam MS Genl Ins Co Ltd,
No:154, Shaw Wallace building,
Thambu Chetty Street,
Chennai – 600001.

.....**Petitioner in all Tr. CMPs**

.Vs.

- 1.Mr. Anandan (MCOP No.54 of 2018) Respondents in
Tr.CMP No.282/2020
- 2.Shaik Yasmi & 1 Other (MCOP No.730 of 2019) Respondents in
Tr.CMP No.283/2020
- 3.Mr. Moganamma (MCOP No. 564 of 2019) Respondents in
Tr.CMP No.284/2020
4. Mr. Barath Muthu Ganesh M (MCOP No.5912 of 2018) Respondents in
Tr.CMP No.285/2020
5. Mr. Soniya & 5 Others (MCOP No. 731 of 2019) Respondents in
Tr.CMP No.286/2020
6. Mr. Jesi & 2 Others (MCOP No.346 of 2019) Respondents in
Tr.CMP No.287/2020
- 7.Mrs. Petchiyammal & 3 Others (MCOP No. 820 of 2019) .. Respondents in
Tr.CMP No.288/2020

8. Mrs. Mohanraj (MCOP No. 138 of 2019) Respondents in Tr.CMP No.289/2020
- 9.Mrs. Suresh (MCOP No. 335 of 2019) Respondents in Tr.CMP No.290/2020
10. Mr. Thangamani S (MCOP No.372 of 2019) Respondents in Tr.CMP No.291/2020
11. Mr. Anand(MCOP No.287of 2019) Respondents in Tr.CMP No.292/2020
- 12.Mr. Seenivasagan (MCOP No.383 of 2019) Respondents in Tr.CMP No.293/2020
- 13 Mr. Samiyappan (MCOP No. 317 of 2019) Respondents in Tr.CMP No.294/2020
14. Mrs.pappa (MCOP No. 03 of 2020) Respondents in Tr.CMP No.295/2020
- 15.Mr. Annadurai A (MCOP No. 1075 of 2018) Respondents in Tr.CMP No.296/2020
- 16.Mrs.Lakshmi &4 others (MCOP No.249 of 2019) Respondents in Tr.CMP No.297/2020

....Respondents in Tr.CMPs/Petitioners in MCOPs

1)Prayer in Tr.CMP No.282/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of The Constitution of India, to withdraw and transfer the petition in MCOP No.54 of 2018, on the file of the learned Sub Court, Ponneri.

2)Prayer in Tr.CMP No.283/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of The Constitution of India, to withdraw and transfer the petition in MCOP No.730 of 2019, on the file of the learned Motor Accidents Claims Tribunal, IV Additional District and Sessions Court, Ponneri.

3)Prayer in Tr.CMP No.284/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of The Constitution of India, to withdraw and transfer the petition in MCOP No.564 of 2019, on the file of the learned Motor Accidents Claims Tribunal/ Sub Court, Ponneri.

4)Prayer in Tr.CMP No.285/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of The Constitution of India, to withdraw and transfer the petition in MCOP No.5912 of 2018, on the file of the learned Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

5)Prayer in Tr.CMP No.286/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of The Constitution of India, to withdraw and transfer the petition in MCOP No.731 of 2019, on the file of the learned Motor Accidents Claims Tribunal, 1st Additional District Court, Vellore.

6)Prayer in Tr.CMP No.287/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of The Constitution of India, to withdraw and transfer the petition in MCOP No.346 of 2019, on the file of the learned Motor Accidents Claims Tribunal/ 1st Additional District Court, Vellore.

7)Prayer in Tr.CMP No.288/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of The Constitution of India, to withdraw and transfer the petition in MCOP No.820 of 2019, on the file of the learned Motor Accidents Claims Tribunal/ Subordinate Court, Kangeyam.

8)Prayer in Tr.CMP No.289/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of The Constitution of India, to withdraw and transfer the petition in MCOP No.138 of 2019, on the file of the learned Motor Accident Claims Tribunal, The Subordinate Court, Kangeyam.

9)Prayer in Tr.CMP No.290/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of The Constitution of India, to withdraw and transfer the petition in MCOP No.335 of 2019, on the file of the learned Motor Accidents Claims Tribunal, Subordinate Court, Kangeyam.

10)Prayer in Tr.CMP No.291/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of The Constitution of India, to withdraw and transfer the petition in MCOP No.372 of 2019, on the file of the learned Motor Accidents Claims Tribunal/The Subordinate Court, Kangeyam.

11)Prayer in Tr.CMP No.292/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of The Constitution of India, to withdraw and transfer the petition in MCOP No.287 of 2019, on the file of the learned Motor Accidents Claims Tribunal/Subordinate Court, Dharapuram.

12)Prayer in Tr.CMP No.293/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of The Constitution of India, to withdraw and transfer the petition in MCOP No.383 of 2019 , on the file of the learned Motor Accident Claims Tribunal / Subordinate Court, Dharapuram.

13)Prayer in Tr.CMP No.294/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of The Constitution of India, to withdraw and transfer the petition in MCOP No.317 of 2019 , on the file of the learned Motor Accidents Claims Tribunal/ IV Additional District Court, Bhavani.

14)Prayer in Tr.CMP No.295/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of The Constitution of India, to withdraw and transfer the petition in MCOP No.3 of 2020, on the file of the learned Motor Accidents Claims Tribunal/IV Additional District Court, Bhavani.

15)Prayer in Tr.CMP No.296/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of The Constitution of India, to withdraw and transfer the petition in MCOP No.1075 of 2018, on the file of the learned Motor Accidents Claims Tribunal/ Subordinate Court, Kangeyam.

16)Prayer in Tr.CMP No.297/2020:- Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., r/w Article 227 of The Constitution of India, to withdraw and transfer the petition in MCOP No.249 of 2019 , on the file of the learned Motor Accidents Claims Tribunal/ Subordinate Court, Udumalpet.

For Petitioners : Mr. N.Vijayaraghavan
in All Tr CMPs

COMMON ORDER

The Petitioner Insurer has filed 16 Memos dated 08/05/2020 in relation to 16 MCOPs, pending on the file of various Claims Tribunals in Tamil Nadu, as per the tabulation drawn below. The said table also indicates the amounts for which each of the claimants in the 16 MCOPs have agreed for compromise.

S.N	MCOP No	Court Name	MACT	Petitioner Name	Petitioner Advocate	Petitioner Adv Phone No	Amount in Full Quit (Rs.)
1	54/2018	Sub Court, Ponneri IV Additional District and Sessions Court, Ponneri	Ponneri	Mr. Anandan	Suresh Kumar R	9380002727	9,00,000/-
2	730/2019	District and Sessions Court, Ponneri	Ponneri	Mr. Shaik Yasmi & 1 Other	S C Pallayan	9443597746	5,30,000/-
3	564/2019	Sub Court, Ponneri II Court of	Ponneri	Ms. Moganamma	Ammarathgandhi V	9444120074	1,60,000/-
4	5912/2018	Small Causes, Chennai 1st	Chennai	Mr. Barath Mr. Muthu Ganesh M	Ravikumar K	9444493946	2,25,000/-
5	731/2019	Additional District Judge, Vellore 1st	Vellore	Ms. Soniya & 5 Others	Dhakshinamoorthi	9443430346	10,50,000/-
6	346/2019	Additional District Judge, Vellore	Vellore	Ms. Jesi & 2 Others	Dhakshinamoorthi	9443430346	10,50,000/-

7	820/20 19	Subordinate Court, Kangayam	Kangayam	Ms. Petchiyammal & 3 Others	K.Rajendran	9443380411	8,60,000/-
8	138/20 19	Subordinate Court, Kangayam	Kangayam	Mr. Mohanraj	Mr.kalaiselvan	9942598085	6,90,000/-
9	335/20 19	Subordinate Court, Kangayam	Kangayam	Mr. Suresh	Mr.P.Thangamani	9443030838	2,80,000/-
10	372/20 19	Subordinate Court, Kangayam	Kangayam	Ms. Thangamani S	Mr.P.Thangamani	9443030838	4,15,000/-
11	287/20 19	Subordinate Court, Dharapuram	Dharapuram	Mr. Anand	Mr.S,T.Sekar	9842731513	62,000/-
12	383/20 19	Subordinate Court, Dharapuram IV	Dharapuram	Mr. Seenivasagan	Mr.S,T.Sekar	98427- 31513	1,06,000/-
13	317/20 19	Additional District Court, Bhavani IV	Bhavani	Mr.Samiyappan	Mr.A.Rajasekar	9965321329	1,75,000/-
14	003/20 20	Additional District Court Bhavani	Bhavani	Mrs. Pappa	Mr.A.Loganathan	9942151777	99,000/-
15	1075/2 018	Subordinate Court, Kangayam	Kangayam	Mr. Annadurai A	K.Rajendran	9443380411	3,00,000/-
16	249/20 19	Subordinate Court, Udumalpet	Udumalpet	Mrs.Lakshmi & four others	Mr.S.Ananthan	9788554455	8,25,000/-

2.The Petitioner has relied upon the Orders of this Court dated 05/05/2020 made in Tr. CMP No 231/2020 (Batch). As per the said Judgment, by a detailed Order with reasons, this Court had accepted a similar

Memo filed by this Insurance Company M/s Cholamandalam MS General Insurance Co Ltd., and permitted withdrawal of 23 such Motor Accident Claim Petitions (MCOPs) and recorded compromise of those claims, as agreed to by the Parties.

3.This court approved the consent of the Insurer *vide* Memo and the consent of the claimants *vide* WhatsApp Messages through the counsel for the claimants, in all the 23 MCOPs. This Court, upon such satisfaction, granted the relief and recorded compromise of the 23 MCOPs claims, at the instance of M/s Cholamandalam MS General Insurance Co Ltd.

4.In respect of these 16 Memos dated 08/05/2020, the Petitioner Insurance Company, M/s Cholamandalam MS Insurance Co Ltd., has confirmed its consent to enter into a compromise in all the 16 MCOPs as per the amounts indicated in the tabulation drawn above.

5.In respect of the consent of the claimants, the Insurer has produced 16 consents by way of WhatsApp messages, from the said counsel, agreeing for the respective amounts in the tabulation.

6.In the 16 Memos dated 08/05/2020, the insurer has confirmed that the consent between the parties is true and genuine. The counsel for the claimants have confirmed to the insurer that the 16 WhatsApp messages have been sent with the consent of the respective claimants.

7.The said claimants, for lack of immediate internet access, have not sent their individual consents to their counsel. However, the insurer and the counsel for the claimants have submitted, that the claimants are agreeable on the compromise and that the consent letters sent by their counsels by Whatsapp be accepted as consent for the same. The names of the counsels for the claimants are furnished with their respective Mobile Numbers.

8.I am satisfied that there is *consensus ad idem* for this compromise between the parties, and for recording the same in the 16 MCOPs. This Court does not feel the need to reiterate the detailed reasons given by it, in the orders dated 05/05/2020 in Tr. CMP 231/2020 (Batch). The said reasons are fully applicable for granting the reliefs to the parties in these cases as well.

9.In the result, the 16 Memos dated 08/05/2020 filed by the Petitioner Insurance Company are ordered as prayed for. Accordingly, the said 18 MCOPs are withdrawn from the respective Claims Tribunals, to this Court and compromise is recorded for the respective sums, as agreed to *vide* the tabulation.

10.Hence, the following directions are issued.

- i) MCOP No.54 of 2018 on the file of the Motor Accident Claims Tribunal cum Sub Court, Ponneri shall stand withdrawn to this Court and stand compromised for Rs.9,00,000/- in full quit.
- ii) MCOP No.730 of 2019 on the file of the Motor Accident Claims

Tribunal cum IV Additional District and Sessions Court, Ponneri shall stand withdrawn to this Court and stand compromised for Rs.5,30,000/- in full quit. The award shall be shared between the mother and father in the following manner being Rs.2,80,000/- to mother/ 1st petitioner in MCOP. No.730 of 2019 and Rs.2,50,000/- to the father / 2nd petitioner in MCOP No. 730 of 2019.

iii) MCOP No.564 of 2019 on the file of the Motor Accident Claims Tribunal cum Sub Court, Ponneri shall stand withdrawn to this Court and stand compromised for Rs.1,60,000/- in full quit.

iv) MCOP No.5912 of 2018 on the file of the Motor Accident Claims Tribunal cum II Court of Small Causes, Chennai shall stand withdrawn to this Court and stand compromised for Rs.2,25,000/- in full quit.

v) MCOP No.731 of 2019 on the file of the Motor Accident Claims Tribunal cum 1st Additional District Judge, Vellore shall stand withdrawn to this Court and stand compromised for Rs.10,50,000/- in full quit. By WhatsApp message dated 08/05/2020 (annexed to the Memo dated 08/05/2020), the counsel for claimants has certified that the compromise is for the benefit of the 4 minor children. It is agreed that the shares of the minors may be invested in any Nationalised Bank until the minors attained majority. Accordingly, the claimants shall share the compromise award amount as follows:

1. The widow/1st petitioner shall be entitled to Rs.5,50,000/- ;
2. the mother/ 6th petitioner shall be entitled to Rs.1,00,000/- ;
and
3. the four minors/2 to 5 petitioners shall be entitled to Rs.1,00,000/- each.

The shares of the minors shall be invested in a Nationalised Bank until they attain majority. The widow shall be at liberty to approach the Claims Tribunal for permission to withdraw periodical interest on the investment made in the names of the minors for their welfare.

vi) MCOP No.346 of 2019 on the file of the Motor Accident Claims Tribunal cum 1st Additional District Judge, Vellore shall stand withdrawn to this Court and stand compromised for Rs.10,50,000/- in

full quit. The award shall be shared between the widow and 2 sons in the following manner for Rs.6,00,000/- to widow/ 1st petitioner in MCOP. No. 346 of 2019 and Rs.2,25,000 each to the 2 sons being petitioners 2 to 3 in MCOP No. 346 of 2019.

vii) MCOP No.820 of 2019 on the file of the Motor Accident Claims Tribunal cum Subordinate Court, Kangeyam shall stand withdrawn to this Court and stand compromised for Rs.8,60,000/- in full quit. The award shall be shared between the widow, 1 married daughter, 1 son & mother in the following manner:

1. Rs.3,50,000/- to widow/ 1st petitioner in MCOP. No.820 of 2019;
2. Rs.2,00,000 each to the married daughter and son being petitioners 2 to 3 in MCOP No. 820 of 2019; and
3. Rs.1,10,000/-to mother/ 4th petitioner in MCOP. No.820 of 2019.

viii) MCOP No.138 of 2019 on the file of the Motor Accident Claims Tribunal cum Subordinate Court, Kangeyam shall stand withdrawn to this Court and stand compromised for Rs.6,90,000/- in full quit.

ix) MCOP No.372 of 2019 on the file of the Motor Accident Claims Tribunal cum Subordinate Court, Kangeyam shall stand withdrawn to this Court and stand compromised for Rs.4,15,000/- in full quit..

x) MCOP No.287 of 2019 on the file of the Motor Accident Claims Tribunal cum Subordinate Court, Dharapuram shall stand withdrawn to this Court and stand compromised for Rs.62,000/- in full quit.

xi) MCOP No.383 of 2019 on the file of the Motor Accident Claims Tribunal cum Subordinate Court, Dharapuram shall stand withdrawn to this Court and stand compromised for Rs.1,06,000/- in full quit.

Xii) MCOP No.317 of 2019 on the file of the Motor Accident Claims Tribunal cum IV Additional District Court, Bhavani shall stand

withdrawn to this Court and stand compromised for Rs.1,75,000/- in full quit.

Xiii) MCOP No.3 of 2020 on the file of the Motor Accident Claims Tribunal cum IV Additional District Court Bhavani shall stand withdrawn to this Court and stand compromised for Rs.99,000/- in full quit.

Xiv) MCOP No.1075 of 2018 on the file of the Motor Accident Claims Tribunal cum Subordinate Court, Kangeyam shall stand withdrawn to this Court and stand compromised for Rs.3,00,000/- in full quit.

xv) MCOP No.249 of 2019 on the file of the Motor Accident Claims Tribunal cum Subordinate Court, Udumalpet shall stand withdrawn to this Court and stand compromised for Rs.8,25,000/- in full quit. The award shall be shared between the wife, 2 daughters and 2 sons in the following manner:

1. Rs.2,25,000/- to wife/ 1st petitioner in MCOP. No.249 of 2019 and
2. Rs.1,50,000 each to the 2 daughters and 2 sons being petitioners 2 to 5 in MCOP No. 249 of 2019.

xvi) It is therefore, directed that the Petitioner Insurance Company shall satisfy the respective compromised amounts in the 16 MCOPs and deposit the respective award amounts to the credit of the respective MCOPs, on the file of the respective Claims Tribunals.

xvii) The Petitioner Insurer shall deposit the respective compromised award amounts within 2 weeks from the date of receipt of copy of this Order by E-Mail.

xviii) Upon such deposit, the claimants would be entitled to withdraw the same on proper identification by the counsel for the claimants, in a manner known to law.

11.Before parting with this case, this court is inclined to record its loud

thinking, during this crisis period. This court was exposed to the desperation of motor accidents claimants seeking closure. In several cases, they had agreed for a compromise even prior to the lockdown being announced. Only the recording of the compromises was to take place. The victims seek a compromise because of the need for an expeditious mode to lay their hands on the compensation amount to get their lives back on track after the traumatic accidents.

12. "Road accidents are major killers in the country" said Justice V R Krishna Iyer in *N.K.V Bros Ltd vs M. Karumaiammal* reported in **AIR 1980 SC 1354**. It must be borne in mind that this observation was made as early as in the year 1980, 40 years ago. The following Table and Statistics of data collated, as available on date, reflects the present status.

Road accidents, Number of persons killed and Injured in the last five years 2014-2018

	Total Number of Road Accidents (in numbers)	% change	Total Number of Persons Killed (in numbers)	% change	Total Number of Persons injured (in numbers)	% change
2014	4,89,400		1,39,671		4,93,474	
2015	5,01,423	2.46	1,46,133	4.63	5,00,279	1.38
2016	4,80,652	-4.14	1,50,785	3.18	4,94,624	-1.13
2017	4,64,910	-3.28	1,47,913	-1.90	4,70,975	-4.78
2018	4,67,044	0.46	1,51,417	2.37	4,69,418	-0.33

Number of Accident based on type of vehicle involved					
Vehicles	2014	2015	2016	2017	2018
Two Wheeler	1,33,634	1,44,391	1,62,280	1,57,723	1,64,313
Auto	31,172	30,340	31,440	29,351	27,385
Car/Taxi/Van/Jeep	1,11,218	1,18,438	1,13,267	1,13,737	1,13,490
Bus	41,365	41,832	37,487	32,145	30,746
Trucks/Tempos/Tractors	96,215	98,897	1,01,085	92,818	90,224
Non-Motorized vehicles	31,815	22,739	4255	6,376	7,682
Other Motor Vehicle	43,981	44,786	17,583	32,760	33,204

India's Registered Motor Vehicles: Total data was reported at 253,311.000 Unit th in Mar 2017. This records an increase from the previous number of 230,031.000 Unit th for Mar 2016. India's Registered Motor Vehicles: Total data is updated yearly, averaging 12,618.000 Unit th from Mar 1951 to 2017, with 61 observations. The data reached an all-time high of 253,311.000 Unit th in 2017 and a record low of 306.000 Unit th in 1951. India's Registered Motor Vehicles: Total data remains active status in CEIC and is reported by Ministry of Road Transport and Highways. Updated on 4th Feb 2020.

March 2017	March 2016	Min	Max
253,311.000 unit	230,031.000	3,06.000 (1951)	253,311.000 (2017)

The economic loss from these accidents, India's transport minister reckons, is close to 3% of the country's GDP. That's Rs.55,000 crore (\$8.2 billion) every year.

Using detailed data on deaths and economic indicators from 135 countries, the study estimates that, on average, a 10% reduction in road traffic deaths raises per capita real GDP by 3.6% over a 24-year horizon.

2014-38 (deaths and injuries)	GDP Per Capita addition
Thailand	22%
China	15%
India	14%
Philippines	7%
Tanzania	7%

13.The number of lives lost or limbs maimed are shocking and it leads to a complete shakedown of the families and undeniably has a physical, mental and financial impact on their lives. In ***Kannan & Vijayaraghavan's Motor Vehicle Laws, ButterworthsLexisNexis, 2019 edition***, it is noted that the annual economic loss, the world over, from such motor accidents, to the countries is in the vicinity of \$550 Billion. It is to be noted that the same is in Billions of dollars.

14.Coming to India, there is a death every 6 minutes on the road. As was recently reported, Tamil Nadu appears to have taken proactive steps and reduced the number of accidents and fatalities. Typically, during these national shutdown times, there has been an inevitable reduction in the number of accidents. Lives and limbs have been saved. But, that is an artificial situation brought about by the Covid19 Pandemic. This is abnormal. That we will return to the normal and average suggests that fatalities and injuries from motor accidents may be back to high numbers. A terrifying thought indeed.

15.Why this Preamble and leading to what? Does this belong to this order which is meant for withdrawal of MCOPs from various Claims Tribunals in Tamil Nadu and permitting the recording of compromise. Is not the order complete with the grant of the relief and concomitant directions? Yes, this court is aware of the limits to its remit. It is not inclined to go beyond where it

may be seen to be overreaching.

16. But, we live in such critical times and this Court has been exposed, day in and day out to the cries and agonies of the victims, seeking early closure being unable to achieve it. Till date, this Court has been able to allow compromises worth Rs.4,19,57,324/- (Four Cores fifty-seven lakhs three hundred twenty-four only), for about hundred victims.

Date	Sum
05-May-20	51,59,000
06-May-20	1,17,35,368
07-May-20	8024956
08-May-20	43,72,000
08-May-20	49,39,000
11-May-20	77,27,000
Total	Rs. 4,19,57,324

That is only a drop in the ocean, compared to the number of such claims pending. Compute them in Chennai City, travel across Tamil Nadu and the nation, the numbers will run into a several lakhs. Claims pending before the Claims Tribunals, as appeals in High Courts and the Hon'ble Supreme Court, may run into several thousands, if not lakhs. It is brought to my notice that for the period 2018-19 about 9,42,805 claims were pending in respect of the motor insurance companies at various levels. As for 2019-20 around 7,81,563 are pending and data is status to be incomplete.

17. Mix the potion of the astounding number of motor accidents with the

pendency of claims, seeking resolution, you have a perfect recipe for disaster in the lives of the victims desperately seeking solutions. Compromise, is the way to go in such claims and the parties must have a genuine and sincere give and take, as has been demonstrated in the claims, now dealt with by this court. The gesture of the insurers to compromise and the conduct of the claimants and their counsel deserves commendation. The others may need to emulate the example set.

18.The Central and State administrations are trying to cope with the Pandemic and its stranglehold, on every facet of our lives.The virus has not been selective in impacting us. It has hit us physically, socially distanced us, locked the economy down and ruined the livelihoods of our countrymen. If the Virus does not hit you, the Lockdown will consume you, it appears. Our Governments are trying to come up with several rescue and recovery packages and seemingly even stimulus-based ones. Beyond a point, financial profligacy may hit us harder than the virus. Therefore, there are limits on this front too.

19.I strongly feel that, it is at this juncture that the Central Government, Ministry of Finance, Union of India, Insurance Regulatory & Development Authority, Hyderabad, General Insurance Council, Mumbai (apex body of the general insurers comprising motor insurance companies), the 4 public sector insurers and 21 private sector insurers, and State Transport Corporations, must come in and provide succor and relief, in a timely manner, to the victims.

20.Motor insurance is compulsory for the benefit of the victims. The Motor Vehicles Act, 1988 is welfare premised. The construction of the statutory provisions is also to cater to the victims' lot, to do justice by ironing out the creases in the statutes if need be. (In the statutes, **British India General Insurance v. Captain Itbar Singh** in **AIR 1959 SC 1331** to **Skandia Insurance Company Ltd v. Kokilaben Chandravadan** in **1987 SCC 654** to **National Company Ltd v. Swaran Singh** in **2004 (3) SCC 297**). All that, is intended to come to the rescue of the innocent accident victims, whose lives are completely derailed by the happening of such avoidable accidents.

21.Coming to the specifics of these observations, this Court is deliberating whether the Central Government/Union Finance Ministry/IRDA/GIC/4 PSUs and nearly 21 private motor insurance companies and State Transport Corporations, can come to agree that, say, in Appeals against awards where the amounts in dispute were less than Rs.7.50,000/- could all be agreed to be withdrawn, as not pressed, in one go, as a one off gesture in these Pandemic times, without prejudice to any legal issues that need to be resolved in those appeals.

22.Why not? This court is not suggesting this ball park figure upon any statistical or numerical algorithms. It is a mere speculative number. The concerned entities may hit upon any other number of their choice, if they

agreed to this solution. It is true that the insurance companies and State Transport Corporations may also have been hit by this Pandemic. But, the need to strike a balance between the two- victim's vs the insurers/STCs, suggests the lot of victims need a desperate rescue and recovery package. Such a measure may unclog the pending appeals and release a significant sum of money, into the hands of the victims, to tap into, in their financially stringent position.

23.It may be appropriate to refer to the Circular No. 17/2019 dated 08.09.2019 issued by Central Board of Direct Taxes mandating "Minimum Effects of Tax" above which alone appeal should be filed. It was observed by CBDT in a statement dated 08.08.2019 that "*There is a substantial pendency of appeals of the Income-Tax Department before various appellate fora. The CBDT is aware of the importance of litigation management and has been continuously working towards achieving the same. It had said the revised limits will help to effectively reduce taxpayer grievances and litigation and help the department focus on litigation involving complex legal issues.....*". From this Circular, it is understandable that the Central Government is seriously concerned with the pendency of litigations and its impact on tax payers. It would therefore, appear that there is a principle that could be drawn from this experience.

24.This court cannot be seen to be directing any of the entities to agree for this loudly thought suggestion. It is up to them to take a call as they

deem fit. But, the fact that this court is perched in a constitutional position, suggests that its words may carry a value, for serious consideration. This Court would like to make use of it for the larger public interest. This court is not issuing any direction. Not even a direction to consider this suggestion.

25. This court is only inspired to request the entities to consider its suggestion, in the wake of what this Court has been exposed to, in coming to the rescue of about hundred victims and enabling them to have the benefit of Rs.4,19,57,324/- and closure of their claims too, before the Claims Tribunals and even this court. That experience has led this court to have a heart, and think of the victims and for them. Accordingly, this court with utmost regard and respect to the limits of its remit, is inclined to direct the Registrar-General of this Court to send a copy of this order, constituting a request being made to the Central Government and others on the suggestion made in this order, with regard to possible withdrawal of appeals before various High Courts in respect of those, where the amounts in dispute were less than, say, Rs.7,50,000/- all told, or such other amount as the entities consider feasible or possible in this regard. This is no compulsion and no direction. It is only a suggestion, based on loud thinking, in the nature of a humble prayer and a request, as they may deem fit to consider, in the circumstances of this case.

26. It is hereby directed that the Registry send a Copy of this Order to the Counsel for the Petitioner by E-Mail, who shall in turn send a copy of the same to the respective Counsel for the Claimants, to confirm the Compromise

Awards.

27.The Registry is further directed to send copies of this Order by E-Mail to the respective Motor Accident Claims Tribunals, for the present, for compliance. The Claims Tribunals shall treat the E-Mail received from this Court as Certified Copy. As and when, normalcy returns after the viral impact, the Registry shall send hard copies of this Order, duly certified to the respective Claims Tribunals, for the record.

28.In so far as the request made to the Central Government/Union Cabinet and Finance Ministry, New Delhi /Chairman, Insurance Regulatory & Development Authority, Hyderabad, Chairman General Insurance Council, Mumbai, Chairmen of the four public sector insurance companies and the Chairmen of the private sector motor insurers and the Chief Secretary, and Secretary, Ministry of Transport, Tamil Nadu, the Registry is directed to send a copy of this order to the said entities by E Mail to their respective E-Mail addresses compiled by this Court and forming part of the list of addressees. It is fervently hoped and believed that the said entities may give due consideration to the suggestion made by this Court and positively respond or as they may deem fit in the circumstances of the case. With these observations the 16 Tr.CMPs shall stand ordered as prayed for in the interest of justice. No orders as to costs in these proceedings.

11.05.2020

Internet: Yes/No

Index: Yes/No

KP

To

1. Sub Court, Ponneri
2. IV Additional District and Sessions Court, Ponneri
3. II Court of Small Causes, Chennai
4. 1st Additional District Judge, Vellore
5. Subordinate Court, Kangeyam
6. Subordinate Court, Dharapuram
7. IV Additional District Court, Bhavani
8. Subordinate Court, Udumalpet
9. N.Vijayaraghavan
(vijayaraghavan.nv@gmail.com)
10. M/s. Cholamandalam MS General Insurance Ltd- Petitioner
(premanandp@cholams.murugappa.com)
(srinivasana1@cholams.murugappa.com)
11. Mr. Rajiv Gauba - Cabinet Secretary
(cabinetsy@nic.in)
12. Dr. Ajay Bhusan Prasad Pandey, - Secretary of Finance Ministry
(rsecy@nic.in)
13. Dr. Subhash C. Khuntia – Chairman of IRDAI
(irda@irdai.gov.in)
14. V. Chidambaram - Secretary of The Ministry of Road Transport and Highways
(v.chidambaram23@nic.in)
15. Mr M N Sarma - Secretary General of General Insurance Council
(sarma.mn@gicouncil.in)

16.Mrs. T L Alamelu

(member-nl@irdai.gov.in)

**17.Mr. Dharmendra Pratap Yadav – Principal Secretary of Tamil Nadu
Transport**

(transec@tn.gov.in)

18. MS.Bajaj Allianz General Insurance Co. Ltd
(tapan.singhel@bajajallianz.co.in)

19.MS.Bharti AXA General Insurance Co Ltd,
(sanjeev.s@bharti-axagi.co.in)

20.MS.Future Generali India Insurance Co Ltd
(anup.rau@futuregenerali.in)

21.MS.HDFC Ergo General Insurance Co Ltd,
(ritesh.kumar@hdfcergo.com)

22.MS.ICICI Lombard General Insurance Co Ltd,
(bhargav.dasgupta@icicilombard.com)

23.MS.IFFCO-Tokio General Insurance Co Ltd,
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24.MS.Liberty General Insurance Limited,
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25.MS.Magma HDI General Insurance Co Ltd,
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26.MS.National Insurance Co. Ltd
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27.MS.The New India Assurance Co Ltd,
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28.MS.Reliance General Insurance Co Ltd,
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29.MS.Royal Sundaram General Insurance Co Ltd,
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30.MS.SBI General Insurance Co Ltd
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31.MS.Shriram General Insurance Co Ltd,
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- 42.MS.Kotak Mahindra General Insurance Co. Ltd.
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- 43.MS.Liberty General Insurance Ltd.
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- 44.MS.Raheja QBE General Insurance Co. Ltd.
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सत्यमेव जयते

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N.ANAND VENKATESH, J.
KP

**Common Order in
Tr.CMP.Nos.282 to 297 of 2020**



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