

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2020

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2854 of 2016

and

C.M.P.No.20682 of 2016

Manager,
United India Insurance Company Limited,
Divisional Office,
No.2, Dr.Shankaran Salai,
Namakkal District – 637 001

Appellant

1. Shanmugam

2. Sukumar

3. The Director General of Police,
Mylapore, Chennai -4.

4. The Principal Secretary to Government,
Transport Department,
Fort St. George,
Chennai – 600 009.

5. The Director of Medical and
Rural Health Services,
DMS Campus, Anna Salai,

1/36

Teynampet,
Chennai – 600 006.
(RR3 to R5 impleaded vide order of Court
dated 06.03.2020 made in C.M.A.No.2854/2016
and C.M.P.No.20682/2016)

.. Respondents

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 09.06.2016 made in M.C.O.P.No.931 of 2013 on the file of the Motor Accidents Claims Tribunal (Additional District Judge), Namakkal.

For Appellant : Mr.D.Bhaskaran

For Respondents : R1 – Mr.C.Thangaraju
R2 – No Appearance
R3 – Mr.L.Charles Premkumar
Government Advocate
(Criminal Side)
R4 – Mr.Y.T.Aravind Gosh
Additional Government Pleader(CS)

Mr.M.B.Raghavan
(Amicus Curiae)

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J U D G M E N T

The present Civil Miscellaneous Appeal on hand is preferred against the judgment and decree dated 09.06.2016 made in M.C.O.P.No.931 of 2013 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Namakkal.

2. The United India Insurance Company Limited is the appellant and the contention mainly raised to set aside the judgment and decree are that the 1st respondent/claimant filed a false Claim Petition and played fraud on the Court to grab an untenable compensation from the Insurance company. There is a time delay in registering the FIR. The FIR itself was lodged with the motive to grab an untenable compensation from the appellant/Insurance company. The Claims Tribunal also failed to note that the second respondent's vehicle in question was not involved in the accident. The claimant has not given Registration number of the vehicle in question alleged to have been involved, while taking treatment. The claimant has given a wrong Registration number of his vehicle, while lodging the belated FIR. The claimant has not produced his correct vehicle to the Motor Vehicle

Inspector and in fact, M.V.Report had not placed before the Tribunal. After investigation, the Police has found that the respondent/claimant's FIR was false and submitted a final report to that effect. The evidence was also produced through RW1, RW2 and Ex.R1 & Ex.R2, to establish the false claim and motive of the respondent/claimant to grab an untenable compensation. Thus, the award is liable to be set aside as the claimant obtained the award on the basis of the false claim and by committing a fraud.

3. The learned counsel appearing on behalf of the 1st respondent/claimant strenuously opposed the contention by stating that the claim is genuine and not false. The respondent/claimant sustained grievous injuries and due to loss of memory and on account of the fact that the FIR is unable to be registered immediately, the delay occurred and the mere delay in registering the FIR cannot be a ground to set aside the entire award. The respondent/claimant had taken treatment due to the accident and under those circumstances, he was not in a position to furnish the correct number of the vehicle and subsequently, he has given the correct number and therefore, the

ground taken by the appellant/Insurance company is untenable. It is further contended that the accident was established before the Tribunal and on 04.08.2013 at about 6.00 p.m at Mohanur Main Road, the respondent/claimant was riding a TVS XL two wheeler and the lorry bearing Registration No.TN-28-AK-7655 came behind the respondent/claimant in a rash and negligent manner, dashed with the two wheeler and the respondent/claimant sustained grievous injuries. He had undergone surgery and spent about a sum of Rs.1,50,000/- towards medical expenses. At the time of accident, the claimant was aged about 53 years and was working as a Coolie and earning a sum of Rs.15,000/- per month. Therefore, the Claim Petition was filed and the Tribunal also considered the facts and passed an award, granting compensation. Thus, the appeal is liable to be dismissed.

4. The Tribunal proceeded on the basis that the accident occurred on 04.08.2013 at about 6.00 p.m and the respondent/claimant was the rider of TVS XL two wheeler and the lorry came behind the two wheeler in a rash and negligent manner, dashed against the respondent/claimant, who in turn,

fell down and sustained grievous injuries. The respondent/claimant contended that the accident occurred due to the rash and negligent driving of the lorry.

5. The contention of the appellant/Insurance company before the Tribunal was that no such accident as such stated in the Claim Petition had occurred. The respondent/claimant had driven the vehicle in a rash and negligent manner and fell down and therefore, the very claim petition is untenable. The date, time and the place mentioned in the Claim Petition are false and denied by the appellant/Insurance company. The contention of the appellant/Insurance company before the Tribunal was that it is a false accident and therefore, the claim petition is a false one. The lorry passed on the road was noted down by the respondent/claimant and he has given the number of the lorry falsely.

6. The copy of the FIR was marked as Ex.P1, wherein, it is stated that the accident occurred due to the negligence on the part of the respondent/claimant. The Police Investigation was conducted and the charge

sheet was filed in the criminal case. The charge sheet filed by the Police reveals that the facts regarding the accident is a mistaken fact and accordingly, the Sub-Inspector of Police also deposed before the Tribunal. One eye-witness namely Mr.Raja was supported the claim of the respondent/claimant. The Insurance company witnesses based on the charge sheet and the FIR and on enquiry, deposed that the facts stated in the Claim Petition are false and no such accident occurred as per the statement given by the respondent/claimant. The only contention raised by the claimant is the Investigating officer, Mr.Sundararajan was not examined. However, the Sub-Inspector in charge during the relevant point of time Mr.Vijayaraju had given the evidence before the Tribunal based on the Investigation Report.

7. In spite of these contra evidence, the Tribunal arrived a conclusion that the lorry driver had committed an act of negligence and accordingly, the appellant was held liable to pay compensation.

8. The total compensation of Rs.1,07,100/-(Rupees One Lakh Seven Thousand and Hundred only) was awarded.

9. The learned counsel for the appellant/Insurance company reiterated that, when the very factum regarding the accident was not even established beyond any pale of doubt, the Tribunal has committed an error in awarding compensation. The respondent/claimant has not even given the Registration number of the vehicle in question and if that is the position, the Tribunal ought not to have considered the Claim Petition at all. The FIR itself was filed belatedly and the Police Investigation reveals that the fact stated by the respondent/claimant are false. When the FIR is not corroborating with the facts stated by the claimant and importantly, the charge sheet reveals that the facts are mistakenly stated in the Claim Petition, there is no reason for the Tribunal to award compensation.

10. The entire facts and circumstances raises a doubt in the mind of the Court. As far as the accident claims are concerned, the facts must be unambiguous. Even in case, there is a loss of memory or the claimant due to the injury, unable to provide the correct vehicle number, at least the Police Investigation should reveal the accident occurring time and the place

specified as in the Claim Petition. If the charge sheet of the Police is not corroborating with the facts stated in the Claim Petition, then the Tribunal ought not to have considered the Claim Petition at all. In most of the cases, the facts stated in the FIR has been taken for consideration to establish the accident. But, in the present case, even after the investigation and filing of the charge sheet, Police officials deposed that the facts stated in the Claim Petition is mistaken facts. This being the Prima facie case established before the Tribunal, the Tribunal has not appreciated the contradiction in the Claim Petition as well as in the FIR and the Charge sheet filed by the Police. The deposition of Mr.Raja cannot be taken as a valid evidence, in view of the fact that he is an interested witness. However, the FIR and the Charge sheet cannot be neglected and it is to be given due weightage. If the basic facts regarding the accidents are not corroborating with the FIR as well as the charge sheet filed by the Police, then there is every reason to disbelieve the case of the respondent/claimant. This Court is of the considered opinion that many number of false claims are filed, processed and the Tribunals are also awarding compensation in a routine manner. Though the issues were dealt on several occasions by the Hon'ble High Court as well as by the Hon'ble

Supreme Court, still such false claims are being noticed. Full Proof System in the matter of accident claims are necessary in order to avoid the bogus and fraudulent claims. This apart, unethical practices in settlement of claims are to be eradicated in order to protect the interest of the genuine accident victims. Undoubtedly, the accident victims are to be provided medical treatment immediately and 'just compensation' is to be granted without any lapse of time. The very purpose and object of the statute is to ensure speedy remedy to the accident victims. However, such things are not happening on account of various corrupt practices in the process of settling the compensation. Courts are also struggling to minimize such irregularities and illegalities. In the process of rectification, Court can make suggestions and issue directions to improve the system, so as to minimize the level of corruption and any other illegal activities in Motor Accident cases. This being the factum and the case of false claims are brought to the notice of the Courts, the Hon'ble High Court and the Hon'ble Supreme Court, on several occasions, issued directions, so as to ensure the genuine claimants receive compensation at the earlier point of time in accordance with law.

11. With an idea to take the procedures one step ahead, this Court has considered various judgments of the Hon'ble Supreme Court of India as well as the Hon'ble High Court. In order to take the System forward, so as to minimize the false claims and illegal practices in the matter of settlement of accident claims, the respondents 3, 4 and 5 are impleaded in the present Civil Miscellaneous Appeal and the Director General of Police filed a Status Report. Thereafter, this Court appointed Mr.M.B.Raghavan, learned counsel as *Amicus Curiae* to assist the Court in order to form an opinion. The *Amicus Curiae* intimated to the Law Association and the respective learned counsels, who all are interested and obtained their suggestions and submitted a report, elaborating the judgments of the Hon'ble Supreme Court of India as well as the Hon'ble High Court. This apart, this Court has given opportunity to the interested learned counsels to offer their valuable suggestions, so as to ensure that the accident victims get speedy disposal of Claim Petitions and receive their compensation promptly and without any delay.

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12. Few interested lawyers namely Mr.L.Chandra Kumar, Mr.P.Selvaraj, Mr.S.Arunkumar, Mr.J.Michael Visuvasam, Mr.F.Terry Chella Raja appeared and assisted the Court effectively to form an opinion. The suggestions and the points offered by all the Learned counsels are considered by this Court for the purpose issuing appropriate directions to the authorities as well as to the Tribunals, so as to ensure not only speedy disposal of Claim Petitions, but also to prevent false and fraudulent claims. The effective assistance provided by the *Amicus Curiae* Mr.M.B.Raghavan, learned counsel, stands appreciated.

13. Let us now consider the provisions of the Motor Vehicles Act.

Section 158(6) of the Motor Vehicles Act, 1988 reads as under:

“As soon as any information regarding any accident involving death or bodily injury to any person is recorded or report under this section is completed by a police officer, the officer-in-charge of the police station shall forward a copy of the same within thirty days from the date of recording of information or, as the case may be, on completion of such

report to the Claims Tribunal having jurisdiction and a copy thereof to the concerned insurer, and where a copy is made available to the owner, he shall also within thirty days of receipt of such report, forward the same to such Claims Tribunal and Insurer.”

14. Section 166(4) of the Motor Vehicles Act, 1988 reads that “the Claims Tribunal shall treat any report of accidents forwarded to it under Sub-Section (6) of Section 158 as an application for compensation under this Act.”

15. Both the above provisions of the Motor Vehicles Act, 1988 unambiguously reveals that the Police officer, on receipt of information regarding any accident involving death or bodily injured to any person, has to register the F.I.R and conduct investigation and submit a report and such a report is to be communicated to the Claims Tribunal as well as the insurer and the copy should be made available to the owner of the vehicle also. The above statutory provisions is crystal clear that the duty of the Police officer

to prepare the Accident Information Report and the detailed accident report and communicate the report to the Tribunal and Insurance company and thereafter, the Claims Tribunal under Section 166(4) of the Act shall treat the report of Accidents forwarded to the Tribunal as an application under Sub-Section (6) of Section 158 for compensation under the Motor Vehicles Act.

16. India has largest number of road accidents in the world. More than one lakh people die in road accidents in a year and the average number of deaths per day are more than 300, meaning thereby that more than ten persons die every hour. Number of accidents in the cities like Chennai, Coimbatore and Madurai are also high. Most of the victims of the road accidents are poor people pedestrian or riding on motor cycles/ bicycles/ scooters. The drivers of the cars/trucks have least respect for the road users and they do not even care to stop and provide medical aid to the victims of the road accidents. The insurance companies wait for a case to be filed before the Motor Accidents Claims Tribunal and on receipt of summons also, no steps are taken to settle the case and the trial goes for many number

of years. Undoubtedly, the situation creates a serious concern.

17. The reasons for delay in disposal of claim cases are many and more specifically, delay in service of notice to the driver and owner, non-appearance of the driver and owner despite service, non-production of the driving licence by the driver and the owner, non-production of the insurance policy, registration coverage, fitness certificate and permit by the owner, the plea of the owner that he has sold the vehicle before the accident, avoidance of liability by the insurance company on the ground that the driver and owner are not producing the relevant documents and in the case of uninsured vehicles, claimants are unable to enforce the award against the owner.

18. The Hon'ble Supreme Court of India in the case of ***General Insurance Council vs. State of Andhra Pradesh, IV(2007) ACC 385 (SC)***, held that Claims Tribunal shall treat the report forwarded to it under Section 158(6) as an application for compensation. However, the said procedures are not strictly followed till today. In this regard, the Delhi Police filed an

undertaking to start the initiatives to implement Section 158(6) of the Motor Vehicles Act and the said procedures are now in force as far as the Delhi is concerned. The enforcement of Section 166(4) of the Motor Vehicles Act, 1988 is concerned, it provides that the Claims Tribunals shall treat the Accident Information Report (AIR) under Section 158(6) as a claim petition. The object of Section 166(4) of the Motor Vehicles Act is that poor and helpless victims of the road accident may be ignorant of their rights, therefore, the cognizance of the claim for compensation be taken by the Claims Tribunal directly on the basis of the Accident Information Report of the police without the requirement of a separate claim petition to be filed by the claimant. However, this provision is not being enforced as the police are not filing the Accident Information Report with the Claims Tribunal.

19. While Sections 166(1) and 163-A contemplate application by victims for compensation on the basis of fault or without proof of fault, statute independently contains provision for submission of Accident Information Report under Section 158(6) (Form 51 of CMV Rules) and for Tribunals to initiate action for compensation on the basis of AIR under

Section 166(4).

20. The judgment of the Hon'ble Supreme Court of India in *GL Council vs State of AP* had emphasized the importance of the said provisions and its previous directions on strict observance of Section 158(6) of Motor Vehicles Act by Police officers.

21. The Hon'ble Delhi High Court in *Rajesh Tyagi's case vide recent order dated 07.12.2018* had finalized the Modified Motor Accidents Claims Tribunal Agreed Procedure and for submission of Detailed Accident Report with supporting documents by Delhi Police to the Tribunals in Delhi, in a form wider than the statutory Accident Information Report contemplated by Form 51 of CMV Rules. The wide ranging information to be culled out by Police authorities was in effect intended to serve all the evidence on a platter for quick settlement of compensation to victims. The said Procedure had been modified vide order dated 12.12.2014 which is being implemented at present in Delhi.

22. *In Jaiprakash vs National Insurance (SLP C No.11801/2005 dt. 13.05.2016* as extracted in *M.R.Krishnamoorthy vs New India (2019 SCC Online 315)*, the Hon'ble Supreme Court of India had examined the Detailed Accident Report (DAR) scheme of Delhi High Court and held that the procedure being followed in Delhi by way of a Scheme called "Claims Tribunal Agreed Procedure" formulated by the Delhi High Court in Rajesh Tyagi case shall be followed nationwide, with the Police authorities to submit the Report within 90 days.

23. The Hon'ble Apex Court had directed Registrar General of all the High Courts across the country to ensure that the said procedure being followed by Delhi is implemented through the Motor Accidents Claims Tribunals in coordination with the Legal Service Authorities as well as the Director General of Police of the States concerned.

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24. In CrI.O.P.No.18110 of 2016, the Madras High Court, while dealing with a complaint of fake accident, examined the issues of fraudulent

claims and difficulties of victims in securing compensation and issued various directions for implementation of DAR Scheme in Tamil Nadu pursuant to the order of the Hon'ble Supreme Court in the case of *Jaiprakash*.

25. Vide Circular dated 02.01.2017 the Director General of Police, Tamil Nadu, had issued instructions for uploading online set of 12 documents relating to the accident and vehicle involved, besides separate set of documents in regard to victims as per DAR Scheme. The Crime and Criminal Tracking Network and Systems (CCTNS) platform is to be established as the online system of the Tamil Nadu Police for making available documents under the DAR Scheme, in lieu of physical filing before the Tribunal by Police.

26. Importantly, in *MR Krishnamoorthy vs New India Assurance (2019 SCC Online 315)*, the Hon'ble Supreme Court has directed;

(a) The implementation of the Motor Accidents Claims Tribunal Agreed Procedure dated 12.12.2014 of Delhi High Court in every State.

(b) The implementation of Motor Accident Claims Annuity Deposit (MACAD) Scheme by Tribunals on All India basis.

27. The concern of the Court is that speedy settlement of claims and disposal of cases and avoiding fraudulent claims and unethical practices, have been progressively formulated through various decisions of the Hon'ble Supreme Court. The mechanism for submission of Detailed Accident Report with details and documents as mentioned in DGP Circular dated 02.01.2017 is in place. The Reports being uploaded online in CCTNS website are made available to the Tribunals, Judicial Magistrates, Victims, Insurance Companies, Transport Corporations and Legal Services Authorities. While the online DAR System in Tamil Nadu is less detailed than the Report under Agreed Procedure in Delhi it provides basic details for the purpose of Sections 158(6) and 166 (4) to initiate action for pre-litigation settlement or a regular proceeding.

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28. Though the system of uploading the Detailed Accident Report, online in CCTNS website, the respective learned counsels are raising

serious concern that the system is not functioning promptly, so as to ensure that the Claim Petitions are registered and actions are initiated for pre-litigation settlement or for a regular proceeding. There are various complaints that the copies uploaded in the website are mostly not legible. The DAR is not communicated to the Tribunal and the Insurance Company concerned as mandated under Section 158(6) of the Motor Vehicles Act. In the absence of clear readable documents and communication of the same to the Tribunal as well as to the Insurance company concerned, it may not be possible for the Insurance companies as well as the Tribunals to settle the compensation or to proceed with the regular hearing.

29. The scrupulous implementation of the Online DAR in Tamil Nadu at Police Station level by prompt uploading of clear authentic documents upto the Final Report to confirm the accident, vehicular records, compliance with statutory provisions in regard to use of vehicle, details of victims, family members and other aspects are the basic foundation for delivery of relief at an early date to the victims. Without these informations, in clear terms, the mechanism cannot be pressed into service. The mechanism little

stand as it is without any effective implementation. Thus, utmost importance to maintain efficiency and integrity in the mechanism is of paramount importance.

30. This Court has no hesitation in complimenting the function of uploading the DAR by Police authorities. Use of the DAR and information by the Tribunals is equally necessary as the compensation has to reach victims only through the Tribunals. The effective use of the DAR reports both in pre-litigation exercise (in fresh cases) and in pending cases is of vital importance to achieve the objective of settlement without delay. Without action by the Tribunal, the entire platform that has been made available would not serve the victims and the stakeholders.

31. The Modified Claims Tribunal Agreed Procedure (dated 02.12.2014 of Rajesh Tyagi's case) directed to be implemented by Hon'ble Supreme Court in *Jaiprakash and reiterated in M.R.Krishnamoorthy* has not taken off in Tamil Nadu. No systemic change appears to have been brought about by the online platform by establishment of any specific

procedure as contemplated in Motor Accidents Claims Tribunal Agreed Procedure as approved in *Jaiprakash*. On the ground, proceedings are initiated as usual by filing of claim applications. There is no pre-litigation exercise by making use of the online facility initiated by the concerned authorities/ parties. As observed by this Hon'ble Court in the order dated 16.03.2020, the Insurance Companies still await filing of claims before the Tribunal and the trial and adjudication still takes considerable length of time. With this document, the frame work already directed in previous proceedings, it is necessary that the same is to be taken further for effective implementation of Sections 158(6) and 166(4) of the Motor Vehicles Act.

32. Presently, while DAR Online has been created, it is not used by the Tribunals either in pre-litigation exercise or in pending cases for speedy disposal of cases. As observed by this Hon'ble Court in the order dated 16.03.2020, Insurance Companies still await filing of claims before the Tribunal and the trial and adjudication still takes considerable length of time. There is no platform for any pre-litigation exercise in the Tribunals. Section 166(4) read with 158(6) is not in use and the DAR Online, which

has been inspired and prompted by the Agreed Procedure and the order of the Hon'ble Supreme Court of India, in *Jaiprakash case*, have been not in use. Therefore, DAR Online should be combined with the jurisdiction under Section 166(4) to create a platform as an opportunity for victims to secure relief without going through a full-fledged litigation as is contemplated by the Agreed Procedure upheld in *Jaiprakash's case* and under the proposed MAMA in *M.R.Krishnamoorthy's case* by the Hon'ble Supreme Court. Without action by the Motor Accident Claims Tribunal, the entire platform that has been made available would not serve the victims and the stakeholders.

33. In order to ensure effective and efficient implementation of the Detailed Accident Report (DAR) as well as for the settlement of just compensation, this Court is inclined to issue the following directions to the respondents:

- (1) The 3rd respondent / Director General of Police, is directed to issue orders to all the Subordinate Police authorities, so as to ensure that on receipt of information

regarding any accident, jurisdictional Police shall register the FIR immediately and upload the same on the Crime and Criminal Tracking Network and Systems (CCTNS) Website without any further delay.

(2) The 3rd respondent / Director General of Police is directed to issue orders, conduct investigation of the accident without any undue delay and further, all other documents contemplated under the Detailed Accident Report (DAR) as per DGP Circular dated 02.01.2017 are uploaded periodically during the investigation. The investigation is to be completed and the Final Report is directed to be uploaded within a period of 90 days from date of accident.

(3) The documents are directed to be uploaded after verification for authenticity with the concerned Departments / Insurance Companies.

(4) The 3rd respondent / Director General of Police is directed to ensure the Name, Address, Mobile number of the Victim (in injury cases) or of Spouse/Children (in case of fatal accidents) are uploaded in the website clearly. Aadhaar particulars of Victim/Spouse/Children are also to be uploaded to enable identification of the claimants and avoid multiple claim proceedings.

(5) The 3rd respondent / Director General of Police is directed to suitably modify/alter, so as to send E-mail notifications to specified Email ID of the respective Motor Accident Claims Tribunals and Insurance companies concerned across the State of Tamil Nadu in respect of the FIR and the other documents uploaded by the Police authorities in order to serve the objective of Section 158(6) of the Motor Vehicles Act.

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(6) Prompt implementation of the D.G.P. Circular and

the directions of this Court is to be reviewed once in a month by the Inspector General of Police concerned and lapses, dereliction of duty by any authority are to be viewed seriously and Disciplinary Proceedings are to be initiated against the erring officials.

(7) The 3rd respondent / Director General of Police is directed, in case, where any vehicle involved in accident does not have insurance, the Investigating Police Officer shall not release and shall impound the vehicle.

(8) The 5th respondent / The Director of Medical and Rural Health Services is directed to maintain Accident Registers in all the Government Hospitals across the State for Road Traffic Accidents in a specific colour with continuous running numbers and upload the accident particulars in the Medical Department official website. The uploading of the information is directed to be made within a period of seven (7)

days from the date of receipt of information regarding the accident.

(9) The 5th respondent / The Director of Medical and Rural Health Services is directed to ensure Blood Tests are conducted in required Road Traffic Accident Cases under Sections 185 and 204 of the Motor Vehicles Act, 1988.

(10) Necessary directions are to be issued to all the Government Hospitals across the State of Tamil Nadu.

(11) The 5th respondent / The Director of Medical and Rural Health Services is directed to ensure that the competent Medical Board examine the referred accident victims and issue 'Disability Certificate' within a period of thirty (30) days from the date of such reference.

(12) The Motor Accident Claims Tribunals across the

State of Tamil Nadu are directed to follow up the cases uploaded by the Police authorities in Crime and Criminal Tracking Network and Systems (CCTNS) by downloading the FIR along with the relevant documents. Thereafter, the FIR shall be numbered under Section 166(4) of the Motor Vehicles Act, 1988, within a period of fifteen (15) days from the date of intimation and the CCTNS website is to be followed up for downloading the complete set of documents from the concerned Police authorities. The Police authorities are already directed to complete the investigation and submit the final report within a period of 90 days from the date of accident.

(13) The Motor Accident Claims Tribunals across the State of Tamil Nadu are directed to issue notice to the victims and the concerned Insurance companies/Transport Corporations/Owners as the case may be, within a period of fifteen (15) days from the date of numbering the FIR and take

initiative / consider settlement of claims to the victims on the specified date recording the Aadhaar number of the Claimant, so as to enable verification of proceedings at the later date.

(14) If the parties had reached a settlement, then the Motor Accident Claims Tribunal shall record the same, pass award in terms of the settlement and direct payment of the agreed compensation as per the prevailing procedures followed by the Tribunal in passing awards.

(15) If no settlement is concluded on the notified date or any further adjourned date, within a specified time by the Tribunal on account of any specific dispute with regard to liability, then the Pre-Litigation file may be closed by the Tribunal.

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(16) If the Victim/Claimants desire to conduct the Pre-Litigation proceeding before any other Motor Accident

Claims Tribunal (having jurisdiction under Section 166 of the Motor Vehicles Act) those claimants may be permitted to inform the Tribunal about their willingness in the form of an affidavit/letter and on receipt of the same, the Tribunal is directed to transfer the Pre-Litigation proceedings to the Tribunals opted by the Victim/Claimants.

(17) If there is no settlement arrived between the parties in the Pre-Litigation proceedings, the Claimant shall have the right to pursue a claim under Sections 166 or 163-A of the Motor Vehicles Act.

(18) With reference to the Pre-Litigation settlement, the Motor Accident Claims Tribunal may take a decision and refer the proceedings to the Legal Services Authority for dealing with the same and in case, there is a settlement, the proceedings can be reported back to the Tribunal for passing award or in case, no settlement, for closing the Pre-Litigation

Proceedings. In this regard, the Legal Services Authorities have been provided access to DAR Online and thus involve in the scheme of relief to victims.

(19) The Motor Accident Claims Tribunals are directed to readily use the informations and documents uploaded in the Detailed Accident Report (DAR) in all pending trials to avoid delay in disposal of the claim cases.

(20) The Motor Accident Claims Tribunals having special and direct access to the documents through Detailed Accident Report (DAR), is directed to use the same, if there is no dispute regarding the documents uploaded by the Police authorities. Those documents shall be relied upon for the purpose of disposal of the Claim Petition as the entire procedure require to be summary in nature. The online documents being authenticated with water mark, would satisfy Section 65(B) of the Evidence Act mandate and may be marked

as Exhibits. Thus, Trial can be shortened to avoid delay and prejudice to claimants.

(21) The Motor Accident Claims Tribunals are directed to ensure with reference to Pay and Recover rule, that the victims do not suffer lengthy trials and erring owners/drivers do not escape liability, despite flouting the statutory provisions in use of motor vehicles.

34. The above directions are issued for efficient and effective process to settle the compensation to the Accident Victims. It is made clear that though there are provisions in Motor Vehicles Act and Tamil Nadu Motor Accident Claims Tribunal Rules with regard to the applications to be filed by the victims for compensation, enquiry by Tribunal and passing of award, those provisions would neither affect the jurisdiction of the Tribunal to act under Section 166(4), nor can be construed as any bar against the formulation of any mechanism for settlement of Pre-Litigation or the use of DAR Online, in the light of the march of the law since Rajesh Tyagi's.

judgment as affirmed by the Hon'ble Supreme Court in **Jai Prakash and M.R.Krishnamoorthy's cases.**

35. The Respondents R3, R4 and R5 are directed to submit their Compliance Report on or before 18.01.2021.

36. Accordingly, the judgment and decree dated 09.06.2016 passed in M.C.O.P.No.931 of 2013 is set aside and the Civil Miscellaneous Appeal in C.M.A.No.2854 of 2016 stands allowed with directions. No costs. Consequently, connected miscellaneous petition is closed.

23.09.2020

Index : Yes
Internet: Yes
Speaking Order
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Note: (i) The Registrar General, High Court of Madras, is directed to communicate the copy of this judgment to all the Motor Accident Claims Tribunal across the State of Tamil Nadu for effective implementation.

(ii) The Registry, High Court of Madras, is directed to list the matter for Reporting Compliance on 18.01.2021.

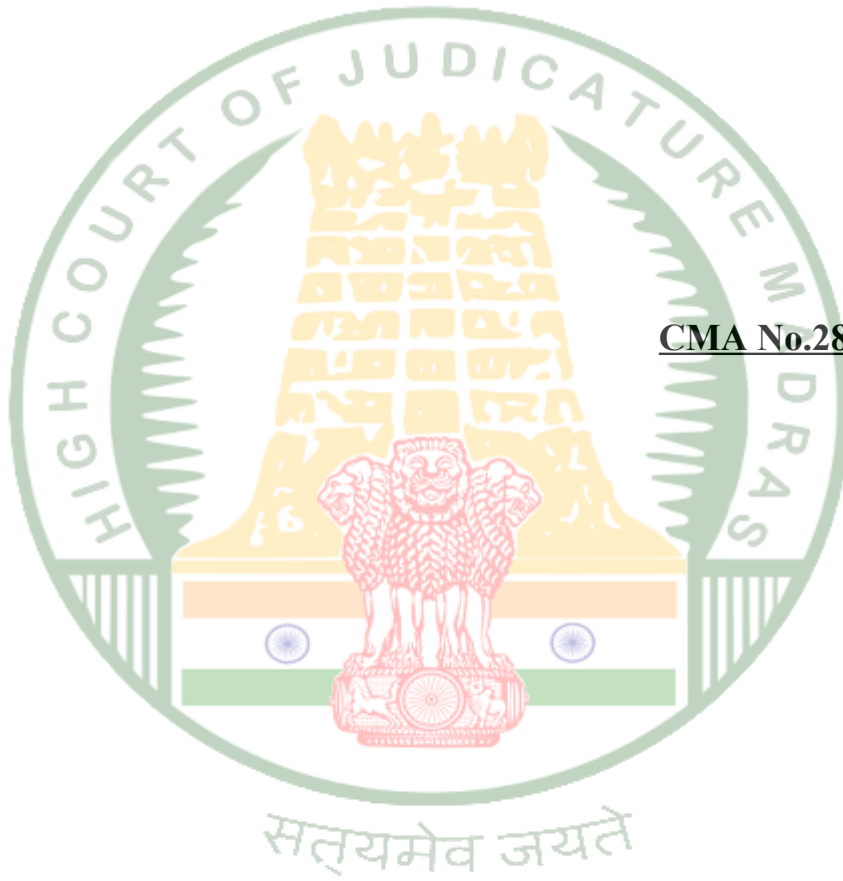
To

- 1.The Motor Accident Claims Tribunal
Additional District Judge, Namakkal.
- 2.The Section Officer,
V.R Section,
High Court, Madras.
- 3.The Registrar General,
High Court,
Madras.



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S.M.SUBRAMANIAM, J.
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