

him. We are of the view that mere refund of rupees four lacs with interest at the rate of 8% per annum, as directed by the trial court, would be highly insufficient. In our considered opinion, it would be just and appropriate to direct the appellants (Legal Representatives of original defendant No.1, since died) to repay rupees four lacs along with interest at the rate of 18% per annum from 21.06.2004 till date within a period of three months from today to the L.Rs. of respondent No. 1 (mentioned in I.A. No. \_\_\_ of 2015 dated 07.09.2015). If they do so, the decree of specific performance shall stand set aside. We clarify that if the amount is not paid or deposited before the trial court in favour of the L.Rs. of respondent No.1 within a period of three months, as directed above, the decree of specific performance shall stand affirmed. We order accordingly.

10. The appeal stands disposed of. Pending I.A(s) also stand disposed of. No order as to costs.

ATMS/VCJ

2016-2-L.W. 561

**IN THE HIGH COURT OF  
JUDICATURE AT MADRAS**

11.03.2016/Civil Miscellaneous Appeal  
No.428 of 2016

**R.Sudhakar, J., and  
S.Vaidyanathan, J.**

The Divisional Manager, The Oriental  
Insurance Company Ltd., Kannur

... Appellant

vs.

Rajesh & others ... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 08.04.2015 made in M.C.O.P.No.10 of 2013, on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Mahe.

**Motor Vehicles Act (1988), Section 166, payment in accident cases, how to be made to victims, detailed directions passed**

**Challenge to quantum of compensation — case of permanent disability — Negligent driving — proof of**

**Payment of compensation to claimants, how to be made — Detailed directions passed, vide para 11, factors taken note of— Procedure before passing award, after after passing award, what is — Payment advice for remittance of compensation, scope**

**Per R.Sudhakar, J.:**

There is a mandate on the Claims Tribunal to deposit the award amount in a Nationalised Bank. Payment out is ordered and cheques are issued to the victims/claimants. These cheques pass through various sieves known and unknown and ultimately, it does not reach the victims/claimants in full measure, less legal expenses and other costs that are justifiable. It was brought to our notice by the Chief Judge, Court of Small Causes and the Registry that in the present system, the insurance companies deposits the cheques with the Claims Tribunal concerned, which in turn deposits the same with the Treasury, and thereafter, it is transferred from the Treasury to a Nationalised Bank by way of fixed deposit. It is thereafter withdrawn for the purpose of settling the award amount. This process consumes a lot of time and leads to delay in disbursal of the award amount. It was stated that this leads to unwanted heartburns at certain quarters and the benefit of the award does not reach the claimants/victims directly in full proportion. The delay in this process, it is stated, is felt more in the Districts. We, inter alia, seek to address the said issue also by way of these directions. We have discussed the issue with counsel for insurance companies, counsel for claimants,

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The Divisional Manager, The Oriental Insurance Co. Ltd., Kannur v. 2016-2-L.W.  
Rajesh & others (D.B. — R.Sudhakar, J., and S.Vaidyanathan,J.)

Bank Manager, representatives of insurance companies, etc. Para 5

It is pointed out by many well-intended members of the bar appearing on either side that in motor accident claims cases crossed cheques are issued bearing an endorsement "& Co. instead of Account Payee. When & Co." endorsement is made on a cheque, there is a provision where the cheque can be endorsed in the name of another person. Therefore, the amount specified in the cheque will be deposited in the name of another person. By virtue of "& Co." endorsement, he will withdraw the amount and take whatever is his requirement and pay over the balance to the victims/ claimants. In effect, the victim/ claimant does not get the full compensation awarded by the Claims Tribunal. By judgment dated 23.2.2016 made in C.M.A. No.3384 of 2014, this Court directed that cheques should be crossed with the endorsement A/c Payee. Para 6

The above said difficulty can be mitigated if the victims/ claimants are called upon to furnish bank account and PAN Card details, if available, so as to ensure that the compensation is deposited in the existing bank accounts of the victims/ claimants in their own territory. It also has another advantage, whereby the compensation awarded can be transferred to the bank account of the victims/ claimants through the presently available computerized system, namely, Real Time Gross Settlement (RTGS) or National Electronic Fund Transfer (NEFT), which is slowly becoming very popular for transfer of funds throughout the country. These methods could be used for transfer of the funds to the Claims Tribunals in relation to the cases in question and thereafter by Direct Benefit or Bank Transfer (DBT) the funds can be electronically transferred to the bank accounts of the victims/ claimants, as the case may be. Para 8

Computerization and modernization of Courts play a big role in reducing the burden of paper and physical handling of men and matter. One such instance that could be

quoted was a suggestion made by me as a Single Judge of this Court, where I passed a judicial order dispensing with filing of judicial stamps papers in high value suits and proceedings by way of payment of Court fees via e-stamping *United India Insurance Co. Ltd. Vs. Sagikor Capital Life Insurance Co. Ltd. and Another*, 2013 (2) CTC 408 (Mad.). On the request made by the Court, the Chief Justice, on the administrative side, accepted it and the Government by vide LA Bill No.1 of 2015, dated 18.2.2016 amended the provisions of the Tamil Nadu Court Fees and Suits Valuation Act, 1956 to incorporate payment of Court fees via e-stamps also. This will ensure that there are no complaints that (i) the correct court fee was not paid; (ii) stamp paper money was misused; (iii) loss of stamp papers in courts. Para 10

Considering all the above factors, with the intention to safeguard the interest of the victims/ claimants and to ensure that the victims/ claimants get full compensation, less the legal costs, certain directions need be issued to the Tribunals to scrupulously follow. Para 11

*Sarla Verma (Smt) and others vs. Delhi Transport Corporation and another*, 2009-5-L.W. 561 = (2009) 6 SCC 121; and

*United India Insurance Co. Ltd. Vs. Sagikor Capital Life Insurance Co. Ltd. and Another*, 2013 (2) CTC 408 (Mad.); — **Referred to.**

**CMA partly allowed**

For Appellant: Mr.N.Vijayaraghavan

For 1st Respondent: M/s.Sarvabhauman Associates

**Judgment — S.Vaidyanathan,J.**

Heard the learned counsel for the appellant/Insurance Company and the learned counsel appearing for the 1st respondent/claimant.

2. Challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, (Subordinate Judge), Mahe vide judgment dated

08.04.2015 in M.C.O.P.No.10 of 2013, the Insurance Company has come up with the present appeal.

3. In an accident which occurred on 27.09.2011, about 10.00 p.m., when the claimant, Rajesh was riding his motorcycle bearing Registration No.KA 36 M 947 slowly and cautiously on the extreme left side of the road near Mundayad Vaidyar Peedika stop at Elayavur, a jeep bearing Registration No.KA 36 M 947 which was driven by its driver in a rash and negligent manner, dashed against the claimant from the opposite side, due to which he sustained grievous injuries. He was immediately taken to Pariyaram Medical College Hospital, Pariyaram, Kannur for treatment. He was later referred to Tejasvini Hospital, Mangalore for further treatment. Due to the accident, the claimant became permanently disabled and totally bed-ridden. The Kannur Traffic Police registered a case in Crime No.788/2011 against the jeep driver. Stating that he has to continue the rest of his life in bed with the help of an attendant, and alleging that the driver of the jeep and the appellant/Insurance Company, being the insurer of the jeep are jointly liable to pay compensation, the claimant filed a claim petition seeking a sum of Rs.45,00,000/- as compensation.

4. The appellant/Insurance Company resisted the claim petition before the Tribunal mainly questioning the rash and negligent driving of the claimant.

5. Before the Tribunal, in support of the claim, one K.K.Rameshan, brother of the claimant was examined as P.W.1; one Dr.Udayakumar was examined as P.W.2; one Mr.Muraleedharan was examined as P.W.3 and Mr.Hariharadas, employer of the claimant was examined as P.W.4. Exs.P1 to P13 and Exs.X1 to X4 were marked, the details of which are as follows:

- Ex.P-1 Copy of F.I.R., dated 13.10.2013
- Ex.P-2 Treatment Certificate, dated 13.10.2013
- Ex.P-3 Discharge Summary, (Series) (6 Nos.)
- Ex. P-4 Medical Prescriptions (Series) (43 Nos.)
- Ex. P-5 Medical Bills for Rs.3,47,830/- (Series) (337 Nos.)
- Ex. P-6 Physiotherapy Bills for Rs.75,040/- (Series) (15 Nos.)
- Ex. P-7 Ambulance charge receipts for Rs.96,250/- (Series) (24 Nos.)
- Ex. P-8 Home Nurse Charge Receipts for Rs.3,27,500/- (Series) (36 Nos.)
- Ex. P-9 Disability Certificate issued by Superintendent, District Disability Assessment Board, General Hospital, Thalassery, dated 03.04.2013
- Ex. P10 Disability Certificate issued by Dr.Latha Gagar, dated 13.12.2013
- Ex. P-11 Attested photocopies of petitioner's educational qualification certificates (Series) (4 Nos.)
- Ex.P-12 Salary Certificate, dated 01.09.2011
- Ex. P-13 Power of attorney executed by the petitioner in favour of his brother Rameshan, K.K., dated 21.08.2013
- Ex. X-1 Registration Certificate issued by Central Excise and Customs Department, dated 05.11.2008
- Ex. X-2 Salary Details of P.W.4's employees which is submitted to Income Tax Department, dated 20.03.2012
- Ex. X-3 Photographs of Rajesh (5 Nos.), CD and Bill
- Ex. X-4 Permanent Disability Certificate issued by Medical College Hospital, Calicut, dated 26.02.2015

On the side of the appellant/Insurance Company, no witness was examined and no document was marked.

6. Taking note of the oral evidence of P.W.1, the elder brother of the injured claimant and Ex.P1 - F.I.R. as also the corroborative evidence of P.W.3 - eye-witness to the accident, the Tribunal, came to the conclusion that the accident took place due to the rash and negligent driving of the driver of the Jeep bearing Registration

No.KA 36 M 947 and awarded a sum of Rs.64,86,620/- as compensation to the claimant with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit, under the following heads:

Loss of income and future income	Rs.45,90,000.00
Extra nourishment and attendant charges	Rs. 50,000.00
Medical expenses	Rs. 7,50,370.00
Transportation charges	Rs. 96,250.00
Pain and suffering	Rs. 2,00,000.00
Loss of amenities	Rs. 1,00,000.00
Loss of marriage prospects	Rs. 1,00,000.00
Loss of expectancy of life	Rs. 1,00,000.00
Future medical expenses	Rs. 5,00,000.00
Total compensation	Rs.64,86,620.00

Challenging the said award that it is exorbitant, the Insurance Company has come up with the present appeal.

7. Learned counsel for the appellant/Insurance Company would strenuously contend that the Tribunal erred in fixing the monthly salary of the injured at Rs.15,000/- without making any deduction towards allowance. It is also his contention that the pecuniary loss assessed at Rs.45,90,000/- is unwarranted.

8. On the other hand, learned counsel appearing for the 1st respondent/claimant would submit that the award of the Tribunal is just and reasonable in view of the grievous injuries sustained by the claimant.

9. Heard the submissions made by the learned counsel on either side and gone through the materials available on record.

10. A perusal of the Secondary School Leaving Certificate of the claimant marked vide Ex.P11 would show the date of birth of the injured claimant as 30.12.1985, thereby, it is clear that the claimant was aged 26 years at the time of accident. Also, a perusal of the Salary Certificate of the claimant

marked vide Ex.P12 and taking note of the evidence of his employer viz. one Hariharadas, examined as P.W.4, it is seen that the injured claimant was paid a Basic Pay of Rs.7,500/- and Rs.7,500/- towards other allowances. Further, the said employer of the injured also produced Tax Deduction at Sources (TDS) statement (Ex.X2) for the Assessment Year 2011-2012 of his employees, which includes the name of the claimant also. While calculating compensation towards loss of income and loss of future income, the Tribunal took the monthly income of the injured claimant at Rs.15,000/- and adding 50% of the same towards future prospects, i.e. a sum of Rs.7,500/-, arrived at a sum of Rs.22,500/-.

11. The Insurance Company has mainly disputed that no amount was deducted from the monthly income of the injured claimant towards allowance. In view of the said contention, this Court is inclined to fix a sum of Rs.13,500/- as the monthly income of the injured claimant and adding 50% of the same towards future prospects, i.e. a sum of Rs.6,750/- to it, a sum of Rs.20,250/- is taken as the total monthly income of the claimant.

12. Further, it is seen that the injured claimant is totally bed-ridden and almost in a vegetative state. He is unable to eat, drink, bath, urinate or pass stools without the help of others. The Disability Certificate issued by Thalassery Medical Board vide Ex.P9 shows the permanent disability of the claimant at 90%. The Calicut Medical Board assessed the permanent disability of the claimant at 100%, as could be seen from Ex.P10. Also, the Tribunal, in its judgment, has observed that when the Court had asked the brother of the claimant to bring the claimant to Court for personal viewing of his condition, he was brought in an ambulance laid in a stretcher and the claimant could only move his eye balls in response to any query. Thus, the Tribunal

taking note of the functional disability of the claimant at 100%, invoked multiplier method to arrive at compensation towards loss of income and loss of future income. Placing reliance on the decision rendered in *Sarla Verma (Smt) and others vs. Delhi Transport Corporation and another*, 2009-5-L.W. 561 = (2009) 6 SCC 121, the Tribunal fixed the multiplier to be applied to the age of the claimant as '17'. Taking note of the condition of the claimant, this Court is not inclined to interfere with the percentage of disability assessed by the Medical Board at 100%. Also, we find that the multiplier adopted is correct."

13. Thus, taking the monthly income of the injured claimant at Rs.20,250/- and applying the multiplier of '17', the revised compensation towards loss of income and loss of future income is arrived at a sum of

Break-up details of the revised award are as under:

Heads	Award of the Tribunal	Revised Award of this Court
Loss of income and future income	Rs.45,90,000.00	Rs.41,31,000.00
Extra nourishment and attendant charges	Rs. 50,000.00	Rs. 50,000.00
Medical expenses	Rs. 7,50,370.00	Rs. 7,50,370.00
Transportation charges	Rs. 96,250.00	Rs. 96,250.00
Pain and suffering	Rs. 2,00,000.00	Rs. 2,00,000.00
Loss of amenities	Rs. 1,00,000.00	Rs. 1,00,000.00
Loss of marriage prospects	Rs. 1,00,000.00	Rs. 1,00,000.00
Loss of expectancy of life	Rs. 1,00,000.00	Rs. 1,00,000.00
Future medical expenses	Rs. 5,00,000.00	Rs. 2,00,000.00
Total compensation	Rs.64,86,620.00	Rs.57,27,620.00 r/off to Rs.57,28,000.00

15. The appellant/Insurance Company is directed to deposit the entire amount awarded by this Court, less the amount already deposited, along with accrued interest to the credit of M.C.O.P.No.10 of 2013 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Mahe, within a period of eight (8) weeks from the date of receipt a copy of this judgment. On such deposit being made, the 1st respondent/claimant is permitted to withdraw the amount, as per the award. It

Rs.41,31,000/- (Rs.20,250/- x 12 x '17'). Coming to the head 'Future medical expenses', this Court is inclined to reduce the compensation and accordingly, it is reduced from Rs.5,00,000/- to Rs.2,00,000/-. As far as the compensation awarded under other heads are concerned, this Court is of the view that they are just and reasonable and accordingly, they are confirmed.

14. In fine, the quantum of compensation of a sum of Rs.64,86,620/- awarded by the Tribunal is modified and the 1st respondent/claimant is entitled to a sum of Rs.57,28,000/- (Rupees Fifty Seven Lakhs Twenty Eight Thousand only) as compensation. The interest fixed by the Tribunal at 7.5% per annum from the date of the petition till the date of deposit, is confirmed.

is also made clear that the award amount shall be paid to the claimant by the Tribunal in the form of a crossed Account Payee Cheque, favouring only the claimant and it should not be issued in favour of any other person/Company.

The Civil Miscellaneous Appeal is partly allowed with the above observation. Consequently, connected C.M.P.No.3143 of 2016 is closed. No costs.

**C.M.A.No.428 of 2016—R.Sudhakar,J.**

I have gone through the judgment on the merits of the case. I concur with the same. However, there is another aspect to the case which needs to be addressed as it relates to travails of claimants/dependants seeking compensation before Claims Tribunals. Over the years, we are tormented by cries of claimants/dependants that just compensation awarded by Compensation Forum is difficult to realize.

2. In a country where legal awareness is wanting despite best efforts by the Legal Services Authority and other legal forums, we find that the victims/dependants are unable to realize the fruit of judicial decisions granting just compensation for years together. The shackles of procedures weigh heavy, as is their heart. This we thought should be addressed to subserve the larger interest of claimants/dependants.

3. The population of our country is growing at a much faster pace than other countries and along with that there is industrial growth which fuels the sale of millions and millions of vehicles. Given the fact that there is very little sense or sensibility to road etiquettes, there is an alarming rise in the road accidents every year. The percentage of accidents is growing in alarming proportion and the Government despite putting in best efforts is not able to contain the road accidents or deaths. We are given to understand that an average number of 300 persons die on a single day, that is to say 10 persons in an hour. Underaged drivers are also contributors for this increase in the road accidents. According to Section 4(1) of the Motor Vehicles Act, No person under the age of 18 years shall drive a motor vehicle in any public place. Provided that a motorcycle with engine capacity not exceeding 50 cc may be driven in a public place by a person after attaining the age of 16 years. With all

major automobile manufacturers having stopped production of vehicles with an engine capacity below 50cc, many youngsters and students ride two-wheelers having higher engine capacity contributing to the alarming increase in the number of accidents. Parents should be sensitized to the need for preventing minors from taking the risk of using two-wheelers. The lack of road sense and failure to adopt safety measures, including wearing of helmets, is causing immense pain both to the injured claimants as well as the relatives of victims. While the judicial system is endeavouring to provide speedy justice and early disbursement of such compensation, it has also to play a major role in ensuring that the compensation reaches the victims/claimants without undue delay and without there being any form of digression of compensation.

4. Section 168 of the Motor Vehicles Act, 1988 provides that the claims tribunal should award just compensation. What may be just in judicial order does not reach the hands of the victims/claimants. Courts cannot be a mute spectator to dissipation of the compensation to the benefit of and at the hands of third parties. It is failure of justice if just compensation does not reach those victims/claimants.

5. Whenever adalats are conducted, the poor victims/claimants come to District Courts and High Court lamenting for just compensation stating that they are unable to enjoy the fruit of the award. What reaches them by quirk of fate is a pittance. There is a mandate on the Claims Tribunal to deposit the award amount in a Nationalised Bank. Payment out is ordered and cheques are issued to the victims/claimants. These cheques pass through various sieves known and unknown and ultimately, it does not reach the victims/claimants in full measure, less legal expenses and other costs that are justifiable. It was brought to our notice by the Chief

Judge, Court of Small Causes and the Registry that in the present system, the insurance companies deposits the cheques with the Claims Tribunal concerned, which in turn deposits the same with the Treasury, and thereafter, it is transferred from the Treasury to a Nationalised Bank by way of fixed deposit. It is thereafter withdrawn for the purpose of settling the award amount. This process consumes a lot of time and leads to delay in disbursement of the award amount. It was stated that this leads to unwanted heartburns at certain quarters and the benefit of the award does not reach the claimants/victims directly in full proportion. The delay in this process, it is stated, is felt more in the Districts. We, inter alia, seek to address the said issue also by way of these directions. We have discussed the issue with counsel for insurance companies, counsel for claimants, Bank Manager, representatives of insurance companies, etc.

6. It is pointed out by many well-intended members of the bar appearing on either side that in motor accident claims cases crossed cheques are issued bearing an endorsement & Co. instead of Account Payee. When & Co. endorsement is made on a cheque, there is a provision where the cheque can be endorsed in the name of another person. Therefore, the amount specified in the cheque will be deposited in the name of another person. By virtue of & Co. endorsement, he will withdraw the amount and take whatever is his requirement and pay over the balance to the victims/claimants. In effect, the victim/claimant does not get the full compensation awarded by the Claims Tribunal. By judgment dated 23.2.2016 made in C.M.A.No.3384 of 2014, this Court directed that cheques should be crossed with the endorsement A/c Payee.

7. We are alive to the fact that large number of victims/claimants are illiterates or uneducated and they are unable to wade

through the justice delivery system. They become victims of delayed compensation and settle for lesser compensation as against recipient of just compensation. In some cases, it has come to our notice that the victims/claimants have to open bank accounts at a different place outside their jurisdiction only for the purpose of realizing the proceeds of the claims tribunal to settle legal costs and expenses. These illiterate victims/claimants are unable to say no to such arrangements as they are desperately looking for the compensation.

8. The above said difficulty can be mitigated if the victims/claimants are called upon to furnish bank account and PAN Card details, if available, so as to ensure that the compensation is deposited in the existing bank accounts of the victims/claimants in their own territory. It also has another advantage, whereby the compensation awarded can be transferred to the bank account of the victims/claimants through the presently available computerized system, namely, Real Time Gross Settlement (RTGS) or National Electronic Fund Transfer (NEFT), which is slowly becoming very popular for transfer of funds throughout the country. These methods could be used for transfer of the funds to the Claims Tribunals in relation to the cases in question and thereafter by Direct Benefit or Bank Transfer (DBT) the funds can be electronically transferred to the bank accounts of the victims/claimants, as the case may be.

9. On following the above procedure, the requirement of deduction of tax in terms of Section 194A of Income Tax, 1961 can also be complied with, that is to say 10% deduction in case of PAN Card holders and 20% deduction in the case of persons who do not hold PAN Cards. In fact, the victims/claimants will stand to gain if erroneously higher deduction is not made. This method will ensure that if there is a Direct Benefit or Bank Transfer to the

account of the victim/claimant, tax deduction at source will be made. The victims/claimants will not be compelled to open a new account for the purpose of realizing compensation cheque. It will also avoid third party interference while receiving of compensation and also give them the benefit of operating the account in their own territory. It will ensure that these victims/claimants are not at the mercy of third parties at the time of receipt of compensation.

**10.** With the rise in population and rise in litigation new challenges are thrown to Courts and all stakeholders. Computerization and modernization of Courts play a big role in reducing the burden of paper and physical handling of men and matter. One such instance that could be quoted was a suggestion made by me as a Single Judge of this Court, where I passed a judicial order dispensing with filing of judicial stamps papers in high value suits and proceedings by way of payment of Court fees via e-stamping *United India Insurance Co. Ltd. Vs. Sagikor Capital Life Insurance Co. Ltd. and Another*, 2013 (2) CTC 408 (Mad.). The said suggestion was primarily intended to ensure that large bundles of stamp papers are not stacked along with the suits and other proceedings, as it has no relevance after it is defaced. Reams and reams of valuable paper can be saved and to that extent it would save the trees. The second reason for choosing such option of e-stamping was that it will avoid misuse of used stamp papers by pulling out a bunch from the huge stock of judicial papers for instituting another suit. On the request made by the Court, the Chief Justice, on the administrative side, accepted it and the Government by vide LA Bill No.1 of 2015, dated 18.2.2016 amended the provisions of the Tamil Nadu Court Fees and Suits Valuation Act, 1956 to incorporate payment of Court fees via e-stamps also. This will

ensure that there are no complaints that (i) the correct court fee was not paid; (ii) stamp paper money was misused; (iii) loss of stamp papers in courts.

**11.** Considering all the above factors, with the intention to safeguard the interest of the victims/claimants and to ensure that the victims/claimants get full compensation, less the legal costs, certain directions need be issued to the Tribunals to scrupulously follow. The following directions are issued for the benefit of the victims/claimants.

**PROCEDURE BEFORE PASSING AWARD**

(i) The Claims Tribunals shall without exception, at the time of commencement of trial and evidence on the side of claimants, obtain and ensure that the bank account details of all the claimants as follows:

- 1 Name of the claimant(s)/ victim(s) with address
- 2 Name of the Bank & Branch
- 3 Bank IFSC Code
- 4 Account No(s). of the claimant(s)/ victim(s)

The first page of the bank pass-book, which will compulsorily contain the photograph of the claimant(s)/victim(s), duly attested by the Bank concerned, should be made available. Wherever the claimant(s)/victim(s) are impleaded as respondents, before the claims tribunal or the Court, their account details, as above, will have to be furnished.

(ii) In case after disclosure of the bank account details before the Claims Tribunal in terms of Clause (i), a new person is added in the account for any reason whatsoever, it is incumbent on the part of the claimant/victim to disclose the same to the Claims Tribunal, indicating the relationship of the newly added person to the claimant/victim and the purpose.

(iii) The Claims Tribunals shall also obtain and ensure the marking of Pan Card of all the claimants, wherever available.



(iv) If the claimant/victim does not have a Pan Card, the Claims Tribunal shall endeavour to advise the claimant/victim about the importance of having such a card, namely, to avoid higher Tax Deduction at Source, for their own benefit, before conclusion of trial. For this purpose, the District Legal Services Authorities and Taluk Legal Services Authorities can facilitate and provide assistance.

(v) The Claims Tribunals may verify and confirm if the claimant/ victim has an Aadhaar card, and if there is one, he/she may be called upon to mark a self attested copy of the Aadhaar Card.

(vi) In case of minor claimants, their bank account details should be obtained and marked. The name of the guardian has to be specified.

(vii) The Claims Tribunals shall ensure compliance of clause (i) above, before conclusion of trial.

#### PROCEDURE AFTER PASSING AWARD

(viii) The Claims Tribunals shall, as a matter of rule, direct the insurance companies or transport corporations or such other entities held liable to pay the compensation, to deposit the award sum to the credit of the bank account of the Claims Tribunal directly by NEFT or RTGS mode. The Registry will issue appropriate directions in this regard enabling the respective Claims Tribunal or the District Court concerned to open separate account, which will bear a suffix MACT to identify that the account is in relation to motor accident claims.

(ix) The Insurance Companies and Transport Corporations shall instruct their banks to ensure deposit of the award sums by way of Direct Bank Transfer to the specified bank account of the Claims Tribunal containing the following information in the prescribed format, by way of compliance of the award.

1 MCOP Number

2 On the file of  
(Claims Tribunal Name)

3 Date of award

4 Compensation Amount

5 Income Tax Deduction at Source

6 Bank Transaction Reference No./  
Unique Transaction Reference (UTR) No.

(x) In turn, the bank of the Claims Tribunal shall receive the deposited sum and capture the above information and furnish a statement of account on a daily basis to the Registry of the Claims Tribunal to enable the said Registry to reconcile the deposits of compensation and the respective MCOPs towards which such deposits were made.

(xi) On such deposits being made, the insurance companies and transport corporations shall submit a letter to the Registry of the Claims Tribunal enclosing a copy of the said bank advice, in prescribed format as above, as per which the deposit was made to the bank account of the Claims Tribunal, to enable the Claims Tribunal to keep tab on the deposits made and the MCOPs for which they were made, which is a fundamental need for a smooth implementation of this well intentioned scheme. The Payment advice for remittance of compensation is as under:

#### PAYMENT ADVICE FOR REMITTANCE OF COMPENSATION

From:

..... Bank .....

To:

..... Court .....

We confirm remittance of compensation as follows on instructions of .....  
(insurance company/transport corporation):-

1 MCOP Number

2 On the file of (Claims Tribunal Name),  
Place

3 Date of award

4 Amount Deposited

5 Income Tax Deduction at Source, if any

6 Unique Transaction Reference (UTR) No.

(xii) The Insurance Companies, Transport Corporations and such other entities making such deposit, shall also send a copy of the payment advice in Clause (ix) to the Claims Tribunal concerned and serve a copy of the same on the claimants or their counsel as the case may be.

(xiii) Insofar as tax deduction at source is concerned, Form 16-A of the IT Act should be provided to the claimant/victim on whose behalf the deduction has been made so as to enable him/her to seek refund of tax deducted.

(xiv) The Claims Tribunals shall ensure that the benefit of details of such bank account of the Claims Tribunal concerned are identified in the award itself, for compliance by those required to satisfy the award.

(xv) The Claims Tribunals shall ensure that as and when an order is passed for disbursement of compensation amount, it will ensure that such disbursement of compensation shall be made directly to the credit of the bank account of the claimant/victim, as the case may be by NEFT or RTGS. The bank account details of the claimant/victim(s) shall be stated in the award/order of the Claims Tribunal.

(xvi) The Claims Tribunals shall, in case of minor claimants, retain the amounts in court deposit until they attain majority. Thereafter, the Claims Tribunal shall ensure deposit of their shares by Direct Bank/Benefit Transfers to the accounts of the parties, who were minors. Wherever the Claims Tribunal feels it appropriate to direct withdrawal of interest for the benefit of the minor, interest shall be paid by direct transfer to the account of the minor.

(xvii) The Claims Tribunals shall also ensure that in case the claimant or claimants die pending proceedings and legal representatives are brought on record,

the same procedure as above in respect of claimants shall be strictly adhered to in respect of impleaded legal representatives also.

(xviii) The Claims Tribunals shall also ensure that in case of compromise being recorded in Lok Adalat proceedings, at the time of such compromise, the details of bank accounts, Pan Card (if available) of the claimant or claimants and/or legal representatives shall also be obtained and disbursement of the amount compromised shall also be only by way of NEFT/RTGS. In cases where the claimants or victims have Aadhaar Cards, a self attested copy of the same may also be obtained.

(xix) The High Court Registry is directed to place the matter before the Hon'ble Chief Justice so that appropriate circular can be issued to all the District Judges and the Claims Tribunals to publish the above interdict, as it needs to be widely publicized and displayed in the notice board and also by way of intimation to insurance companies, transport corporations and other departments that they are required to follow these instructions.

(xx) The District Judges concerned shall ensure strict compliance of the above directions.

(xxi) The Claims Tribunals are hereby instructed to abide by the above direction without any let or hindrance, scrupulously and in case they find any procedural difficulty while implementing the same, it can be brought to the attention of this Court through the Registry.

(xxii) We hereby hold that these directions shall come into force for strict implementation and compliance on and from 1.8.2016 so as to enable the Claims Tribunal concerned to take suitable steps and provide the logistics for complying with the above directions.

(xxiii) A flow chart depicting the mode in which the transactions, namely deposit and payment of compensation, are to be made is annexed to this judgment.

12. We record our appreciation for the fairness on the part of the members of the legal fraternity in assisting the Court to formulate the guidelines/directions to serve the cause of justice, more particularly to innocent and illiterate victims/claimants. We record our appreciation to the efforts put in by (i) Mr.N.Vijayaraghavan; (ii) Mr.S.Arun Kumar; (iii) Mr.M.B.Raghavan and other advocates; the Bank Manager, Indian Bank and Officers of the Small Causes Court.

13. It is our earnest plea to all the stakeholders like insurance companies, transport corporations and government undertakings, as also the members of the legal fraternity, and the banks to ensure that the above directions are strictly complied with taking into consideration the overall interest of the victims/claimants, who are more often coming from the lower strata of society, economically impoverished and suffering further misery due to the injury that is caused due to the road accident or the death of the breadwinner, as the case may be. With fond hope we wish to alleviate the pain and suffering, distress and trauma which they face post the accident on the aspect of just compensation.

14. After considering the effectiveness of the above said procedure, it can be implemented in respect of all other cases involving such bank transactions. For instance cases pertaining to land acquisition, rent control, family court, etc., besides execution petitions, can follow the above procedure.

VCJ

**2016-2-L.W. 571**

**IN THE HIGH COURT OF  
JUDICATURE AT MADRAS**

05.02.2016/C.R.P.(PD).No.304 of 2016 &  
C.M.P.No.1616 of 2016

**M.Venugopal, J., and  
S.Vimala, J.**

M/s.Sakthi Murugan Polymers,  
Registered Partnership Firm,  
Represented by its Partner,  
Mr.K.K.Murthy, No.50/1, 5 Balaji Nagar,  
Sundakkampalayam, Kunnathur-638  
103, Tiruppur District ... Petitioner

Vs.

The Registrar, Debts Recovery Tribunal,  
Coimbatore & another .. Respondents

Civil Revision Petition filed under Article 227  
of the Constitution of India, against the order  
dated 12.10.2015 made in Application  
S.R.No.4037 of 2015 passed by the Registrar,  
Debts Recovery Tribunal, Coimbatore.

**Debts Recovery Tribunal (Procedure)  
Rules (1993)**

**Power of DRAT to condone delay — scope**  
*Baleshwar Dayal Jaiswal Vs. Bank of India*  
**2016-2-L.W.97;— Referred to.**

For petitioner : Mr.Jayesh B.Dolia for  
M/s.Aiyar and Dolia

**Order – M.Venugopal,J.**

The Civil Revision Petition is filed against  
the order dated 12.10.2015 made in  
Application S.R.No.4037 of 2015 passed by  
the Registrar, Debts Recovery Tribunal,  
Coimbatore.

2. Heard the learned counsel for the  
Petitioner.

3. According to the Learned Counsel for the  
Petitioner, the impugned order of the First  
Respondent/Registrar, Debts Recovery  
Tribunal, Coimbatore, dated 12.10.2015 in  
Application S.R.No.4037 of 2015 in