

**Before the Motor Accident Claims Tribunal
(II Court of Small Causes, Chennai)**

Present: Thiru. A.B. Naseer Ali, B.A., B.L.,

Thursday, the 30th day of July 2026

M.P No.7 of 2026 in MCOP No.634 of 2016

1. N. Rajendran

2. Kanniammal @ Karpagam

...Petitioners/Respondent 3 & 4

-Vs-

M. Pushparani

...1st Respondent/Petitioner

V. Vijayakumar

...2nd Respondent/1st Respondent

National Insurance Co., Ltd.,

...3rd Respondent/2nd Respondent

Counsels on Record:-

For Petitioners	Mr.N. Kamaraj
For 1 st Respondent	Mr.S. Jaganathan
2 nd Respondent	<i>Ex parte</i> in the main petition itself
3 rd Respondent	No objection endorsed

This petition came before this tribunal for final hearing on 15.07.2026 in the presence of the learned counsels for both sides. Upon hearing their arguments. Upon perusal of records and having stood over for consideration till this date, this tribunal delivers the following:-

ORDER.

1. This petition has been filed under Order 18, Rule 17 of Code of Civil Procedure Code (CPC) to recall PW1 Pushparani to cross examine regarding Hindu Marriage Rites and Customs.

2. Gist of the Affidavit Connected to the Petition:-

- (a) The deponent is the 4th respondent in the main claim petition.
- (b) The marriage was solemnized between the claim petitioner Pushparani and the deceased Manikandan and the marriage was registered before the District Marriage Registrar at Chennai on 07.10.2015. The petitioner has not marked any marriage invitation, marriage photo, family ration card, bank pass book, Aadhar card, Votor ID and any other valid document to show the name of the petitioner as the wife of the deceased.
- (c) The marriage has not been performed between the petitioner and the deceased Manikandan as per Hindu Rites and Customs as per Section 7 and 8 of the Hindu Marriage Act. A marriage will be valid only when the marriage ceremonies are performed in accordance with the Hindu Marriage Act. No Hindu Marriage ceremony was performed between the petitioner and the deceased. Without performing the marriage ceremony, the marriage certificate is not valid as per the judgment of Hon'ble Supreme Court.
- (d) The petitioners' counsel has not cross examined regarding the ceremonies of the marriage between the petitioner and the deceased Manikandan. Hence, it is

necessary to recall PW1 to cross examine on the above said aspects, otherwise the petitioners will be put to great loss and immense hardships. Hence, the petition.

3. Gist of Counter Affidavit of 1st Respondent/Petitioner:-

- (a) The miscellaneous petition is devoid of merits, frivolous and vexatious.
- (b) The petition is intended only to delay the disposal of the claim petition which has been pending since 2016.
- (c) The petitioners had every opportunity to cross examine when this respondent was examined as PW1. Adequate opportunities were granted by this tribunal. The present application is only an attempt to fill up the *lacuna* in the case after completion of the evidence, which is impermissible in law.
- (d) The allegation regarding the marriage with the deceased is false. The marriage was legally registered before the competent marriage registrar. The certificate issued carries a presumption of correctness unless it is set aside by a competent civil court. The petitioners cannot indirectly challenge the validity of the marriage before this tribunal.
- (e) The question whether all the customary rites were performed cannot be reopened in these proceedings merely on bald allegations. The reliance placed upon the judgment related to Hindu Marriage ceremony is wholly misplaced.

- (f) The power of recalling the witness is only for clarification on essential materials and not to permit the party to conduct the second role of cross examination or to improve its defence.
- (g) The sub registrar/marriage registrar before whom the marriage was registered was also summoned and was duly cross examined. The petitioners are now estopped from disputing marriage certificate. The witness cannot be recalled to fill up omissions or *lacuna* in a party's case. Hence, it is prayed to dismiss the petition.

4. Point for consideration is whether the recall petition is to be allowed or not.

5. No witness was examined and no document was marked on both sides.

6. Point:-

- (a) This petition has been filed to recall PW1 to question her about the Hindu Marriage rites and customs in the light of the judgment of Honourable Apex Court in *Dolly Rani vs Manish Kumar Chanchal*, 2024 INSC 355. The learned counsel for the petitioners is of the view that the marriage status as declared by the Honourable Supreme Court will be binding on all the courts and tribunals spread across the country and so, the petition is to be allowed to cross examine PW1 in the said aspect.
- (b) No doubt, the verdict of Honourable Supreme Court is binding on all the courts and tribunals including this tribunal. However, the context where the Honourable Apex Court insists upon the '*saptapadi*' is to be seen. If this

tribunal is dealing with the issue regarding validity of a Hindu marriage directly, like the civil court / tribunal constituted under the Hindu Marriage Act, then for sure, the above judgment will be a binding precedent. But this tribunal has been constituted as per the Motor Vehicles Act in which the validity of marriage cannot be a primary issue. To check the veracity of the status of marital relationship and to answer the query whether the claimant could be regarded as the wife, such a deep analysis is not required, before this forum.

- (c) For example, in a Domestic Violence case, the strict proof of marriage will not be expected. Even the said Act recognizes “domestic relationship” by section 2 (f) by explaining the same as a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.
- (d) While dealing with the domestic violence case, a learned magistrate will not explore whether the marriage was solemnized in accordance with Hindu rites or not. In the same manner, while awarding maintenance under section 125 of Criminal Procedure Code or under section 144 of the Bharatiya Nagarik Suraksha Sanhita a learned magistrate will not look into the nuances of the ceremonies of the marriage.

- (e) In the same manner, strict literal proof of a formal marriage ceremony is not mandatory to claim motor accident compensation. If a couple cohabited for a long period as husband and wife, the law presumes a valid marriage exists unless proven otherwise. Furthermore, the paramount consideration of the MACT in awarding compensation under the MV Act would be on financial dependency and legal representation and not on the strict matrimonial status.
- (f) This view of this tribunal is fortified with the judgment of the Honourable High Court of Kerala, in *Girija vs. Nallamuthu* in MACA No.555 of 2009 wherein it has been held as under while dealing with the Motor Accident case:

“15. It is true that in the decisions reported in *Santi Deb Berma v. Kanchan Prava Devi* (1991 KHC 825) and *Reema Aggarwal v. Anupam* (2004 KHC 668) relied on by the counsel for the 4th respondent, it has been held that wife means the legally wedded wife and it must be proved that there was a valid marriage for claiming the status of the wife. But it may be mentioned here that all those cases were relating to adultery and bigamy where proof of marriage is very strict than in the case of proving the marital relationship in summary proceedings.”

- (g) As held in the above judgment, the application of the verdict will vary from forum to forum. Hence, with great respect to the learned counsel for the petitioners, the referred case has no application to this proceeding.

(h) The Honourable High Court in the above decision has further reiterated as to how Honourable Supreme Court dealt with the cases of marital status with the following observations:

“16. In the decision reported in *Tulsa & Others v. Durghatiya & others* (2008(4) SCC 520), it has been held that long cohabitation as husband and wife raises a presumption that there was a valid marriage and natural events and conduct of the parties are also to be taken into consideration for coming to the conclusion as to whether the relationship between the persons living together is that of husband and wife or mere concubinage. In that decision, the Hon'ble Supreme Court has relied on the decision reported in *Andrahennedige Dinohamy vs. Wijetunge Liyanapatabendige Balahamy* (AIR 1927 PC 185) wherein it has been observed that, where a man and woman are proved to have lived together as man and wife, the law will presume, unless the contrary is clearly proved, that they were living together in consequence of a valid marriage and not in a state of concubinage. Further the Supreme Court has also re- lied on the decision reported in *Mohabbat Ali Khan v. Mohd. Ibrahim Khan* (AIR 1929 PC 135), wherein it has been stated that the law presumes in favour of marriage and against concubinage, when a man and woman have cohabited

continuously for a number of years. In the same decision, the decision reported in *Badri Prasad v. Dy. Director of Consolidation* (AIR 1978 SC 1557) = 1978 (3)SCC 527) was also relied on, wherein it has been observed that where the partners lived together for long spell as husband and wife, there would be presumption in favour of wedlock. The presumption was rebuttable, but a heavy burden lies on the person who seeks to rebut that presumption. Law leans in favour of legitimacy and frowns on bastardy. The Supreme Court also relied on the decision reported in *Gokal Chand v. Parvin Kumari* (AIR 1952 SC 231), wherein it has been observed that continued cohabitation of man and woman as husband and wife and their treatment as such for a number of years may raise the presumption of marriage, which the presumption is rebuttable and if there are circumstances which weaken and destroy that presumption, court cannot ignore them.

17. Further in the decision reported in *SPS Balasubramanyam v. Suruttayan & Others* (AIR 1992 SC 756), it has been held that if a man and woman were living under the same roof and cohabited for number of years, then law raises a presumption that they lived as husband and wife and if no other evidence is adduced on the

side of the person who wanted to disprove the presumption, then it must be held that there is a valid marriage between them and the children born to them are not illegitimate. The same view has been reiterated in the decision reiterated in the decision reported in *Challamma v. Tilaga & Others* (2009 (9) SCC 299). So it is clear from the above decisions that if there is evidence adduced on the side of the person claiming to be the wife that there was long cohabitation between those persons as husband and wife, then the law raises a presumption of valid marriage.

18. Further in the decision reported in *Pyla Mutyalamma @ Satyavathi v. Pyla Suri Demudu & Another* (2011 (12) SCC 189), it has been held that the law presumes in favour of marriage and against concubinage when a man and woman have cohabited continuously for a long number of years and when the man and woman are proved to have lived together as man and wife, the law will presume, unless the contrary is clearly proved, that they were living together in consequence of a valid marriage and not in a state of concubinage. Several judicial pronouncements right from the Privy Council up to this stage, have considered the scope of the presumption that could be drawn as to the relationship of marriage between two persons living together. But, when an

attempt is made by the husband to negative the claim of the neglected wife depicting her as a kept-mistress on the specious plea that he was already married, the court would insist on strict proof of earlier marriage and this is intended to protect women and children from living as destitutes. So it is clear from the above that if it is proved by circumstances and other evidence that the man and woman were living together as husband and wife and children were procreated in that relationship, then the law presumes a legal marriage unless a contrary is proved by the person who wanted to establish that there was no such relationship.”

- (i) From the above slice of the judgment it could be understood as to how the application of a verdict / provision varies from forum to forum.
- (j) This tribunal does not lose sight of the fact that this is the first forum for the litigants to put forth evidence and so, suitable opportunity is to be given. At the same time, whenever a witness is recalled it has to pass the test whether recall is required for clarification or not as laid down in the judgment of *K.K. Velusamy vs. N. Palanisamy*, (2011) 11 SCC 275, relied upon by the learned counsel for the 1st respondent/petitioner.

- (k) This petition is very specific to recall PW1 on the aspect of validity of the marriage misconceiving the judgment of Honourable Apex Court and hence, there is no purpose in allowing the petition to nurture the misconception.
- (l) However, it is made clear that just because this tribunal dismisses this application, it does not mean that the marital status of the claimant is recognized. Even to recognize the live in relationship as to the level of marriage basic evidence is inevitable. This tribunal does not declare that the claimant has passed that test. It only restricts the other side to challenge the marriage as per section 7 of the Hindu Marriage Act, before this tribunal.
- (m) Hence, this petition is liable to be dismissed and ordered accordingly.
- (n) In the result, this petition is dismissed. However, there is no order as to costs.

This order was partly typed by me in laptop and was partly dictated to the stenotypist, transcribed by her, corrected and pronounced by me in the open Court, on this the 30th day of July 2026.

**II Judge, MACT
(Court of Small Causes), Chennai**

Witness and Documents of both Sides:- Nil

**II Judge, MACT
(Court of Small Causes), Chennai**