



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 2-04-2026

CORAM

THE HON'BLE MRS.JUSTICE R. KALAIMATHI

CMA No. 56 of 2026

- 1.S.Karpagam
W/o. Senthilkumar
- 2.Minor S.Elanchezhiyan
S/o. Senthilkumar
Represented by mother,
Natural Guardian
S.Karpagam, 1st appellant herein.
- 3.Minor S. Nedunchezhiyan
S/o. Senthilkumar

All are residing at No.18, Mariammankoil Street,
Ambedkar Nagar,
Gundu Uppalavadi,
Cuddalore - 607 002.
Represented by mother, Natural Guardian
S.Karpagam, 1st appellant herein.

- 4.Rajavalli
W/o. Ammavasai,
No. 102, Ambedkar Nagar,
Gundu Uppalavadi,
Cuddalore- 607 002.

..Appellant(s)

Vs.

- 1.Acharya Arts and Science College
Acharyapuram, Villiyanur,
Puducherry - 605 010.
- 2.The Manager, Future General India Ins. Co. Ltd.,
9th Floor, VBC Solitair,
47 and 49, Buzullar Road,
T.Nagar,
Chennai- 600 017.



..Respondent(s)

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Order of the Tribunal exonerating the liability of the Insurance Company and to enhance the award amount in MCOP NO. 93 of 2020 dated 04.08.2025 on the file of the Motor Accidents Claims Tribunal/Special District Court II, Cuddalore.

For Appellant(s) : Ms.Subathra
for Ms.Ramya V.Rao

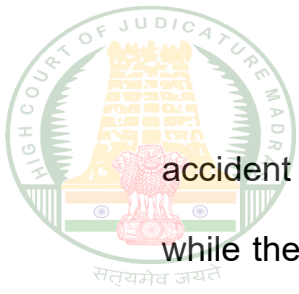
For Respondent(s): No Appearance for R1
Ms.C.Harini
for M/s.Gopalan Associates for R2

JUDGMENT

The claimants who are the legal heirs of Senthil Kumar have preferred this Civil Miscellaneous Appeal against the Award dated 04.08.2025 passed in M.C.O.P.No.73 of 2020 on the file of the Special District Court No.2 (to deal with M.C.O.P. Cases), Cuddalore.

2. Parties are indicated herein as per their litigative status and ranking before the Tribunal.

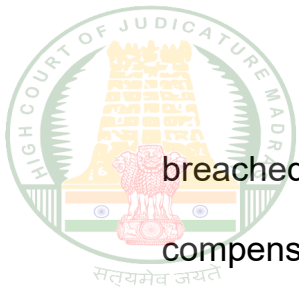
3. The claimants who are the wife, two minor sons and mother of the deceased Senthil Kumar have sought for compensation for the death of Senthil Kumar in a road accident that took place on 09.12.2019. The compensation was quantified at Rs.18,91,000/- on the ground that the deceased was earning Rs.25,000/- per month by working as mason. As to the manner in which the



accident occurred, it has been stated that on 09.12.2019 at about 8.45 hours while the deceased was riding his motor cycle bearing registration No.TN 31-BA-7338 from north to south direction with pillion (Dhandapani) proceeding from Pondicherry to Cuddalore along ECR road, when the vehicle was reaching Periyakanganankuppam, south of Penaiyaru bridge, a bus belongs to the 1st respondent-Educational Institution bearing Registration No.PY 01 K 6685 came from the opposite direction at high speed and in rash and negligent manner, dashed upon the deceased's Senthil Kumar motor cycle. In the result, the deceased was thrown off and sustained serious injuries. On the way to Government Hospital, Cuddalore, he was declared dead.

4. The owner of the 1st respondent bus, despite the receipt of notice, remained ex-partie.

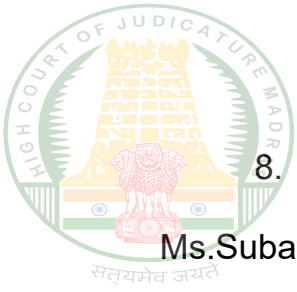
5. The 2nd respondent / Insurance Company resisted the claim by contending that the driver of the bus bearing Registration No.PY 01 K 6685 had no valid license with necessary endorsement to drive the vehicle and the vehicle was plied without proper permit and fitness certificate, thereby the owner has violated the insurance policy conditions. The accident occurred on 09.12.2019 at 8.45 a.m., outside the Union Territory of Pondicherry. Permit was produced during the motor vehicle inspection. As there was no permit at the time of alleged accident, the 1st respondent had taken temporary permit at 15.14 hours on the said date of accident. As the policy conditions are wilfully



breached, the 2nd respondent/ Insurance Company is not liable to pay any compensation to the petitioner and the 1st respondent alone is liable to pay compensation. The Tribunal rejected the claim of the Insurance Company on the issue of negligence by holding that the accident occurred due to rash and negligent driving of the bus based on the evidence of P.W.4 Hariputhiram coupled with other evidence of claimant.

6. As regards the liability of the 2nd respondent / Insurance Company, the Tribunal held that since the vehicle plied without permit and the temporary permit was obtained on the same day after the occurrence, the Insurance Company was held to be not liable to pay compensation and the 1st respondent is saddled with responsibility to pay compensation in entirety. The Tribunal awarded a sum of Rs.18,91,000/- taking notional income of the deceased at Rs.15,000/- adding future prospectus at 25% deducting 1/4th towards personal expenses, awarded a sum of Rs.48,000/- towards spousal consortium, Rs.96,000/- toward parental consortium, Rs.36,000/- towards funeral expenses & loss of estate, and towards transport expenses, Rs.10,000/-. In all, total compensation was quantified at Rs.18,91,000/-.

7. Aggrieved, the claimants are on appeal on quantum as well as on liability issue.

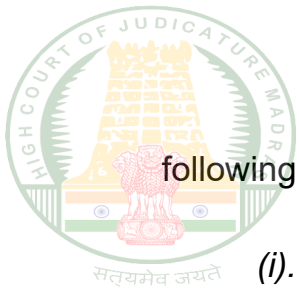


8. Heard the learned counsel for the appellants / claimants, Ms.Subathra and Ms.C.Harini for Mr.Gopalan Associates for the second respondent.

9. The learned counsel for the appellants / claimants Ms.Subathra would vehemently argue that the deceased while driving the two wheeler was hit by the bus and he being the third party, the Tribunal saddled responsibility upon the 1st respondent to pay compensation is fallacious. She would further contend that the deceased was working as a Mason at the time of accident and he was 41 year of age at the relevant point of time and was earning a sum of Rs.25,000/- per month. But the Tribunal assumed notional income at Rs.12,000/- is not adequate and sought for enhancement of compensation.

10. Per contra, the learned second respondent / Insurance Company Ms.C.Harini, would strenuously contend that on account of the fact that the bus was plied without permit, the Tribunal exonerated the Insurance Company to pay compensation. She would further contend that, taking into the account of age, avocation of the deceased and other attending circumstances, amounts awarded by the Tribunal as mentioned supra are in order and according to her, the same may be confirmed.

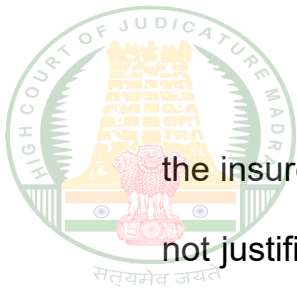
11. The learned counsel would draw the attention of this Court to the



following judgments:

(i). **National Insurance Company Limited vs. Challa Upendra Rao**, reported in **(2004) 8 SCC 517**, wherein, in the said case, three persons were travelling in an auto rickshaw which met with an accident on 09.05.1992. Two persons lost their lives, while one was seriously injured. The injured person as well as the legal representatives of the two deceased persons filed claim petitions under Section 166 of the Motor Vehicles Act, 1988 (in short, “the Act”). The auto rickshaw in question belonged to the insured. The insured resisted the claim on the ground that he had not obtained a permit to ply the vehicle and therefore, in terms of the policy of insurance, the insurer had no liability. The Motor Vehicle Accidents Claims Tribunal (the Tribunal) accepted the plea. However, it held that the insured was liable to pay compensation, which was quantified at Rs.1,24,000/- in the case of death and in the case of the injured claimant, it was quantified at Rs. 2,000/-. The said judgment was challenged in appeal before the Division Bench of the High Court, questioning the correctness of the view regarding the non-liability of the insurer. Whereas, the High Court held that the insurer was liable to indemnify the award. Allowing the appeal, the Supreme Court held that the statutory defences available to the insurer to contest the claim are confined to those provided in Section 149(2) of the Act. A person without a permit to ply a vehicle cannot be placed on a better pedestal vizi-a-viz one who has a permit but has violated any condition thereof. *Plying a vehicle without a permit is an infraction.*”

Therefore, in terms of Section 149(2) of the Act, defence is available to



the insurer in this regard. Therefore, it was concluded that the High Court was not justified in holding the insurer liable and ordered to pay the compensation at the first instance and to recover the same from the insured at a later point of time.

(ii). It is relevant to refer to the observations made by the Hon'ble Supreme Court in the case of **Amrit Paul Singh vs Tata Aig General Insurance Co. Ltd.**, reported in **2018 (7) SCC 558**, wherein,

"23. In the case at hand, it is clearly demonstrable from the materials brought on record that the vehicle at the time of the accident did not have a permit. The appellants had taken the stand that the vehicle was not involved in the accident. That apart, they had not stated whether the vehicle had temporary permit or any other kind of permit. The exceptions that have been carved out under Section 66 of the Act, needless to emphasise, are to be pleaded and proved. The exceptions cannot be taken aid of in the course of an argument to seek absolution from liability. Use of a vehicle in a public place without a permit is a fundamental statutory infraction. We are disposed to think so in view of the series of exceptions carved out in Section 66. The said situations cannot be equated with absence of licence or a fake licence or a licence for different kind of vehicle, or, for that matter, violation of a condition of carrying more number of passengers. Therefore, the principles laid down in Swaran Singh (supra) and Lakhmi Chand (supra) in that regard would not be applicable to the case at hand. That apart, the insurer had taken the plea that the vehicle in question had no permit. It does not require the wisdom of the "Tripitaka", that the existence of a permit of any nature is a matter of documentary evidence. Nothing has been brought on record by the



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insured to prove that he had a permit of the vehicle. In such a situation, the onus cannot be cast on the insurer. Therefore, the tribunal as well as the High Court had directed the insurer was required to pay the compensation amount to the claimants with interest with the stipulation that the insurer shall be entitled to recover the same from the owner and the driver. The said directions are in consonance with the principles stated in Swaran Singh (supra) and other cases pertaining to pay and recover principle.”

In the said case, the vehicle which caused the accident did not have permit. Nothing was brought on record by the Insured / 1st respondent to prove that he had permit for the vehicle and recovery order was passed by the Tribunal was confirmed by the High Court and the same was confirmed by the Hon'ble Supreme Court.

12. It is profitable to refer to Section 149 (2) of the Act, it relates to a vehicle not covered by a permit to ply for hire or regard. Section 149 (2) of Motor Vehicles Act, 1988 is extracted hereunder:

“149(2) No sum shall be payable by an insurer under sub-section (1) in respect of any judgment or award unless, before the commencement of the proceedings in which the judgment or award is given the insurer had notice through the Court or, as the case may be, the Claims Tribunal of the bringing of the proceedings, or in respect of such judgment or award so long as execution is stayed thereon pending an appeal; and an insurer to whom notice of the bringing of any such proceedings is so given shall be entitled to be made a party thereto and to defend the action on any of the following grounds, namely:—



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

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

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

(b) for organised racing and speed testing, or

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

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

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

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

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

13. Section 66 of the Act deals with permit and the same reads as follows:

“66. Necessity for permits. - (1) No owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually



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carrying any passengers or goods save in accordance with the conditions of a permit granted or countersigned by a Regional or State Transport Authority or any prescribed authority authorising him the use of the vehicle in that place in the manner in which the vehicle is being used:

Provided that a stage carriage permit shall, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a contract carriage:

Provided further that a stage carriage permit may, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a goods carriage either when carrying passengers or not:

Provided also that a goods carriage permit shall, subject to any conditions that may be specified in the permit, authorise the holder to use the vehicle for the carriage of goods for or in connection with a trade or business carried on by him.

[Provided also that where a transport vehicle has been issued any permit or permits, as well as a licence under this Act, such vehicle may be used either under the permit, or permits, so issued to it, or under such licence, at the discretion of the vehicle owner.]

(2) The holder of a goods carriage permit may use the vehicle, for drawing of any trailer or semi-trailer not owned by him, subject to such conditions as may be prescribed: [Provided that the holder of a permit of any articulated vehicle may use the prime-mover of that articulated vehicle for any other semi-trailer.]

(3) The provisions of sub-section (1) shall not apply-

(a) to any transport vehicle owned by the Central Government or a State Government and used for Government purposes unconnected with any commercial enterprise;



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(b)to any transport vehicle owned by a local authority or by a person acting under contract with a local authority and used solely for road cleansing, road watering or conservancy purposes;

(c)to any transport vehicle used solely for police, fire brigade or ambulance purposes;

(d)to any transport vehicle used solely for the conveyance of corpses and the mourners accompanying the corpses;

(e)to any transport vehicle used for towing a disabled vehicle or for removing goods from a disabled vehicle to a place of safety;

(f)to any transport vehicle used for any other public purpose as may be prescribed by the State Government in this behalf;

(g)to any transport vehicle used by a person who manufactures or deals in motor vehicles or builds bodies for attachment to chassis, solely for such purposes and in accordance with such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf;

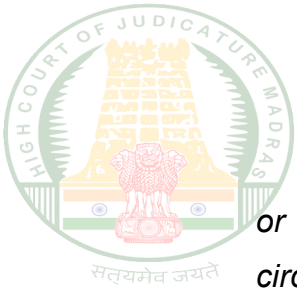
[* * *]

(i)to any goods vehicle, the gross vehicle weight of which does not exceed 3,000 kilograms;

(j)subject to such conditions as the Central Government may, by notification in the Official Gazette, specify, to any transport vehicle purchased in one State and proceeding to a place, situated in that State or in any other State, without carrying any passenger or goods;

(k)to any transport vehicle which has been temporarily registered under section 43 while proceeding empty to any place for the purpose of registration of the vehicle;

[* * *]



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(m) to any transport vehicle which, owing to flood, earthquake or any other natural calamity, obstruction on road, or unforeseen circumstances, is required to be diverted through any other route, whether within or outside the State, with a view to enabling it to reach its destination;

(n) to any transport vehicle used for such purposes as the Central or State Government may, by order, specify;

(o) to any transport vehicle which is subject to a hire-purchase, lease or hypothecation agreement and which owing to the default of the owner has been taken possession of by or on behalf of, the person with whom the owner has entered into such agreement, to enable such motor vehicle to reach its destination; or

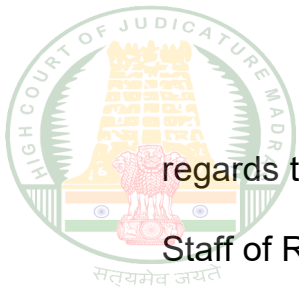
(p) to any transport vehicle while proceeding empty to any place for purpose of repair.

[(q) to any transport vehicle having been issued a licence under a scheme, under sub-section (3) of section 67 or sub-section (1) of section 88A, or plying under such orders as may be issued by the Central Government or by the State Government.]

(4) Subject to the provisions of sub-section (3), sub-section (1) shall, if the State Government by rule made under section 96 so prescribes, apply to any motor vehicle adapted to carry more than nine persons excluding the driver.

Therefore, a through perusal of Section 149(2) of Act shows that the insurer can avoid its liability on the statutory defences expressly provided in Sub Section (2) of Section 149 of the Act. Plying of vehicle without permit is clear infraction.

14. The said details have been pleaded by the Insurance Company. As

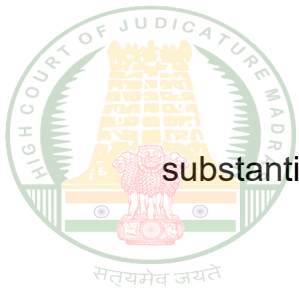


regards the proof, the Insurance Company has examined one Tvl. Srinivasan, Staff of RTO Office, Cuddalore.

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15. Ex.X4 is the Motor Vehicles Inspection Report in respect of the 1st respondent bus (PY 01 K 6685). In Column No.10, period of validity of permit, no detail is mentioned. Temporary permit dated 09.12.2019 has been marked as Ex.R5. Wherein, temporary permit was obtained on 09.12.2019 for a period of seven days. Accident took place on 09.12.2019 at 8.45 a.m. At about 3.00 p.m. soon after the accident, the said temporary permit has been obtained. The aforesaid documents would explicate in clear terms that at the time of accident, bus was plied without permit. Plying of a vehicle without permit is an infraction. Therefore, in terms of Section 149(2) of the Act, the Insurance Company is permitted to take defence on this aspect. As the said defence is permitted to be taken in terms of Section 149(2) of the Act and the said defence having been proved through R.W2, Ex.X4 and Ex.R5, the second respondent/Insurance Company shall pay the compensation at the first instances and to recover the same at a later point of time from the first respondent.

16. On quantum, it has come on record through the evidence of P.W.1 that the deceased was 41 years of age at the relevant point of time was working as Mason and was earning a sum of Rs.25,000/- per month. To



substantiate the same, no concrete proof is marked by the claimants.

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17. P.W2 Mr.Ramu, Assistant, of Labour Welfare Board and P.W3 G.Ramu, Assistant Commissioner of Labour Social Security Schemes have been examined. From their evidence, it is inferable that the deceased was a registered member of the Tamil Nadu Construction Workers Welfare Board. In the absence of substantial proof relating to the monthly income of the deceased, this Court deems fit to fix the monthly income of the deceased at Rs.17,000/-. To prove the age of the deceased Ex.P11-Aadhar card, Ex.R6, Driving License of the deceased are available. As per the said details, date of birth found in the driving license, age of the deceased is taken as 41 years at the relevant point of time. The claimants are the wife, two minor children and mother of the deceased. As per the guidelines of the Hon'ble Supreme Court issued in **National Insurance Co. Ltd. v. Pranay Sethi and others, 2017 (2) TN MAC 609 (SC)**, a standard addition is required to be added with the notional income while computing loss of dependency. No doubt deceased was a self-employed. For the age group of persons between 40 - 49, 25% of income to be added as future prospectus. Claimants are four in number. Therefore, 1/4th is to be deducted for personal and living expenses. As held in **Sarla Verma and others v. Delhi Transport Corporation and another, 2009 (2) TN MAC 1 (SC)**, the relevant multiplier to be invoked is '14m'. Based on the aforesaid details, for computing loss of dependency, the



following formula emerges.

$$\text{Rs.17,000/-} + 25\% - \frac{1}{4} \times 12 \times 14 \text{ m} = \text{Rs.26,77,416/-}$$

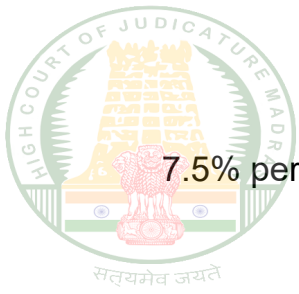
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18. For loss of consortium, an amount of Rs.16,000/-is granted in addition to the amount already granted by the Tribunal. As regards the other heads, the amounts awarded by the Tribunal appears to be acceptable and reasonable and it does not call for any interference by this Court. The amounts awarded by this Court as mentioned supra is reworked and tabulated hereunder:

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For loss of income	Rs.17,01,000/-	Rs.26,77,416/-	Enhanced
2	For loss of consortium	Rs.48,000/- + Rs.96,000/-	Rs.1,60,000/-	Enhanced
3	Towards funeral expenses and loss of estate	Rs.36,000/-	Rs.36,000/-	Confirmed
4	Towards transportation expenses	Rs.10,000/-	Rs.10,000/-	Confirmed
	Total	Rs.18,91,000/-	Rs.28,83,416/-	Enhanced

Rounded off as Rs.28,83,000/-

19. Thus, the compensation awarded by the Tribunal is enhanced from Rs.18,91,000/- to Rs.28,83,000/- which would carry interest at the rate of



7.5% per annum from the date of petition till the date of realisation.

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(i) The Civil Miscellaneous Appeal stands partly allowed. There is no order as to costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.18,91,000/- to Rs.28,83,000/-.

(iii) The Insurance Company / second respondent is directed to deposit the enhanced compensation amount determined by this Court, i.e., Rs.28,83,000/- (less the amount already deposited, if any), together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit, excluding the period of delay, and with costs, to the credit of MCOP.No.93 of 2020 on the file of the Motor Accident Claims Tribunal / Special District Court No.II, Cuddalore, within a period of six weeks from the date of receipt of a copy of this Judgment. The second respondent/Insurance Company shall pay the compensation at the first instance and to recover the same at a later point of time from the first respondent.

(iv) On such deposit being made, the claimants no.1 and 4 are permitted to withdraw the amount, as per the apportionment fixed by the Tribunal, along with the interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.

(v) The share of the minors / claimants no.2 and 3 shall be deposited in any one of the nationalized bank till the minors attains



majority and the 1st appellant, mother of the minors Ms.S.Karpagam is permitted to withdraw quarterly interest from the said amount.

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(vi) The claimants are directed to pay the Court fee for the enhanced compensation amount, if required.

(vii) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimants.

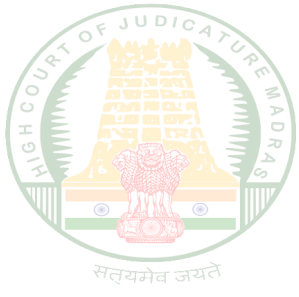
2-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

MAC

To

1. The Motor Accidents Claims Tribunal/Special District Court II, Cuddalore.
2. Acharya Arts and Science College
Acharyapuram, Villiyanur,
Puducherry 605 010.
3. The Manager, Future General India Ins. Co. Ltd.,
9th Floor, VBC Solitair,
47 and 49, Buzullar Road,
T.Nagar,
Chennai- 600 017.
4. The Section Officer,
VR Section,
High Court, Madras.



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R.KALAIMATHI, J.

MAC

CMA No. 56 of 2026

2-04-2026