

C.M.A. No. 595 of 2019
and
C.M.P. No. 1887 of 2019
(through video conference)

N.KIRUBAKARAN, J.
and
T.V.THAMILSELVI, J.

[Order of the Court was made by N.KIRUBAKARAN, J.,]

The Appeal arises under the Motor Vehicles Act, seeking enhancement of the compensation awarded to the Appellant from Rs.18,43,908/-.

2. This Court while allowing the Appeal filed by the Appellant, enhanced the compensation from Rs.18,43,908/- to Rs.1,50,00,000/-, and raised about 12 queries, with regard to the notification dated 06.04.2018, by which the speed limit has been increased and fixed for Express ways at 120 km/hr, for National Highways at 100 km/hr, for M1 category of vehicles at 60 km/hr. Paragraph No.48 of the judgment is extracted as follows:-

“48. For the reasons stated above, the newly impleaded respondents are directed to implement the following directions:

(1) The Central Government/Fourth Respondent shall reconsider the decision taken in April 2018 to increase the speed limit and reduce the speed limit.

(2) Speed governor should be fitted and made part of the vehicles including two wheeler as per Rule 118 of Motor Vehicle

Rules in the manufacturing stage itself.

(3) Modern gadgets like speed gun, speed indication display and drones should be used to find out the speeding vehicle to punish the driver.

(4) The violators of road traffic rules should be strictly punished in accordance with law.

(5) Important vehicles with high speed engines should be calibrated in such a manner the vehicle does not exceed the permitted speed limit.

(6) The license seekers have to be taken to hospitals, where the accident victims are taking treatment, so that evil consequences of violation of road rules would be understood properly by first hand information.

(7) The speed breakers should have been laid according to the road safety measures, so that speed breakers themselves becoming black spots could be avoided.

(8) The Special Courts should be constituted to deal with traffic offences and the accident claim cases, so that criminal case arising out of the accident and the claim arising out of the same accident could be dealt with by the Special Courts together comprehensively.

(9) Hence, the State Government is directed to rope in the celebrities to spread the message of road discipline through media, as they also have the social responsibility for an orderly and disciplined society.

(10) *The State Government is directed to arrange for lectures by experts, doctors, social workers etc. to the licence seekers, stressing upon the necessity to follow road rules, before the licence is given.*

(11) *The Respondent Governments are directed to identify the Accident prone zone/black spots and to station the mobile trauma units/Ambulances there.*

(12) *The Respondents/Governments shall illuminate intersections on the Highways with high power lights to indicate the drivers about the intersections which would make drivers to slow their vehicles.*

3. This Court has gone into the main reason for many road accidents, which is over speeding and paragraph Nos. 5 to 7 of the judgment is usefully extracted as follows:-

“5. In 2013, over all 1,37,000 people were killed in road accidents alone, i.e, more than the number of people killed all over the wars put together. As already stated above, overspeeding is the highest cause for road accidents. However, in April 2018, the Government of India has increased the maximum speed limit and fixed it for Express ways at 120km/hr, for National Highways at 100km/hr and urban roads at 60km/hr for M1 category of vehicles. The M1 category vehicles include most passenger vehicles that have less than 8 seats. States and local Governments in India may fix lower speed limits than those prescribed by the Union Ministry. Mostly, State

Governments follow the speed limit fixed by the Central Government.

6. In spite of knowing the fact that overspeeding is the main killer and responsible for most of the accidents, the Government, for various reasons, particularly, **for commercial reasons has increased the speed limit resulting in more deaths.** According to Dr.Patanjali Dev Nayar, Regional Advisor to World Health Organisation, if we reduce the speed limit to about 55-57 km/hr, India could save 30-37% lives. The following are the data regarding accidents due to overspeeding from 2017 to 2019:

S. No.	Year	Total no. of accidents	Deaths	Injuries	Over speeding	
					Total	% share of total
1	2017	4,64,910	1,47,913	4,70,975	98,613	66.7%
2	2018	4,37,396	1,54,732	4,39,262	86,241	55.73%
3	2019	4,67,044	1,51,417	4,69,418	97,588	64.4%

7. The number of accidents in Tamil Nadu due to overspeeding from 2014 to 2018 as per the data of Ministry of Road Transport and Highways (MoRTH) is as follows:

Year	No. of Accidents	No. of fatalities
2014	28804	7155
2015	38042	9380
2016	47055	11444
2017	51565	12570
2018	46113	9224

4. Further in detail, this Court also analysed the reason for increase in accidents in paragraph Nos. 41 to 47, which are extracted as follows:-

“41. Since the victim in this case is a two wheeler rider and she sustained spinal cord injury, this Court has to warn the two wheeler riders about the safety and security. If one goes through the data regarding road traffic accidents, it is evident that two wheeler riders are more vulnerable for accident. The following data would give as to how the rate of death of two wheeler occupants is dangerously increasing for the past five years:

Year	Fatalities (%)	Top 2 states
2015	43,540 (29.3)	TN (3,668) MH (3,146)
2016	46,370 (30.5)	TN (5,666) MH (5,595)
2017	52,359 (34.9)	UP (5,906) MH (5,758)
2018	54,610 (35.7)	UP (6,474) MH (6,389)
2019	58,747 (38)	MH (7,137) UP (6,431)

42. Report published by Ministry of Road Transport and Highways in the year 2020 states that 6 two wheeler riders die every hour in Indian road accidents. The details would reveal that the two wheeler riders or occupants are vulnerable for accidents and therefore, the two wheelers riders have to be disciplined and there should not be overspeeding. Many two wheeler riders are inviting accident by overspeeding and that is the reason why the number of fatalities of two wheeler riders are dangerously increasing. Therefore, it is the bounden duty of the concerned Government to direct the manufacturers of two

wheelers to install speed governors in the two wheeler in the manufacturing stage itself as component of two wheeler, so that speeding of vehicle itself would be prevented and the accident could be averted.

43. One more important reason for increase in accidents due to overspeeding is by imported vehicles. The imported vehicles are not manufactured for Indian conditions. The imported vehicles come with high speed engines and therefore, they should be calibrated in such a manner that the vehicle would not pick up speed beyond the limit permitted in our Country. The Government should also instruct the same at the manufacturing stage itself to control the speed limit. In the notification issued on 05th August 2014, the following are the maximum speed prescribed in respect of different class of motor vehicles:

S.No.	Class of Motor Vehicles	Maximum speed per hour in kilometres
(1)	(2)	(3)
1	Motor vehicles used for carriage of passengers comprising nine or more seats in addition to the driver's seat	80
2	Motor vehicles used for carriage of passengers comprising not more than eight seats in addition to the driver's seat	100
3	Motor vehicles used for carriage of goods	80
4	Quadricycle	70
5	Three wheeled vehicles	60
6	Motor cycles	80

In the notification issued on 06th April 2018, the following are the maximum speed prescribed in respect of different class of motor vehicles:

Maximum speed per hour in kilometres on roads in India					
S. No.	Class of Motor Vehicles	Expressway with Access Control	4 lane and above divided carriageway (roads with Median strips / Dividers)	Road within Municipal Limits	Other Roads
(1)	(2)	(3)	(4)	(5)	(6)
1	Motor vehicles used for carriage of passengers comprising not more than eight seats in addition to the driver's seat (M1 category vehicles)	120	100	70	70
2	Motor vehicles used for carriage of passengers comprising nine or more seats in addition to the driver's seat (M2 and M3 category Vehicles)	100	90	60	60
3	More vehicles used for carriage of goods (All N category Vehices)	80	80	60	60
4	Motor Cycles	80*	80	60	60
5	Quadricycle	-	60	50	50
6	Three wheeled	-	50	50	50

Maximum speed per hour in kilometres on roads in India				
vehicles				
<i>*If permitted to ply on Expressway.</i>				

44. The speed governor as provided under the Rule 118 of Motor Vehicle Rules has to be fitted in every vehicle including two wheelers as the two wheelers are more vulnerable for accidents. The data available would show that majority of the victims are two wheeler riders. Therefore, the Government shall implement Rule 118 of Motor Vehicle Rules by directing the manufacturers to fit the speed governor in every vehicle at the manufacturing stage itself, so that it would be a part of the vehicle.

45. Though the issue involved in this case is motor accident claim, since overspeeding is the main cause for road accident and innumerable precious lives are lost, this Court suo motu invokes Article 226, to issue directions to control overspeeding in the interest of public. Therefore, this Court suo motu impleads the following as party respondents to this proceedings as Respondents 6 and 7:

**(1) Ministry of Road Transport and Highways,
Represented by its Secretary,
Union of India,
New Delhi.**

and

**(2) The Director General of Police,
State of Tamil Nadu,
Mylapore, Chennai.**

Mr.G.Karthikeyan, learned Central Government Standing Counsel takes notice on behalf of the 4th Respondent and

Mr.T.M.Pappaiah, learned Special Government Pleader takes notice on behalf of the 5th Respondent.

46. Every driver thinks that he is a super expert driver and that is the reason for many of the accidents. The mind set of the drivers should be changed. While issuing license, the drivers should be taught to drive the vehicle or ride the two wheeler responsibly and cautiously, not only taking care of himself but also considering the life of the other persons including occupiers of the opposite vehicles. Before issuing license, classes should be taken for those, who are seeking driving license about the precautions to be taken and experts like psychologists should also be involved to explain the dangers of rash and negligent driving and the consequences of accidents, viz., deaths and the mental agony of injured persons. Those lessons will definitely help the applicants to drive very cautiously.

47. The road rules should be incorporated as a chapter in the school education, so that from young age onwards the children would be able to learn and observe the road rules and in due course when they grow up, it will help in maintaining discipline on road and avoid violations and accidents”

5. When the matter is posted today for reporting compliance, Mr. Rajesh Vivekanandhan, Learned Assistant Solicitor General of India filed a comprehensive typed-set stating that directions given by this Court have been

complied with, except the first query, with regard to reconsidering the decision taken in April 2018 to increase the speed limit and reduce the speed limit, as notified in the notification dated 06.04.2018. Paragraph No.2 of the proceedings dated 17.08.2021 given by the Ministry of Road Transport & Highways is extracted as follows:-

“2. Ministry's status report on the directions of Hon'ble Court is as under:

S. No.	Directions issued by the Hon'ble Court	Ministry's comments
1.	The Central Government/ Fourth Respondent shall reconsider the decision taken in April 2018 to increase the speed limit and reduce the speed limit.	Keeping in view the better engine technology and improved road infrastructure, an Expert Committee was constituted to review the speed limits of motor vehicles and as per the recommendations of the committee, the maximum speeds for vehicles on different roads had been revised by the Ministry vide notification S.O. 1522 (E) dated 6 th April 2018. (copy enclosed).
2.	Speed Governor should be fitted and made part of the vehicles including two wheelers as per Rule 118 of Motor Vehicle Rule in the manufacturing stage itself.	This Ministry had issued notification G.S.R. 290 (E) dated 15.04.2015 & GSR 424 (E) dated 01.05.2017 (copies enclosed) regarding mandatory fitment of Speed Governor in certain category of Transport Vehicles having maximum preset speed of 80/60 kilometre per hour and thereby amended Rule 118 of Central Motor Vehicles Rules, 1989 as under :- Every Transport vehicle notified by Central Government under sub-section (4) of Section 41 of the Motor Vehicles Act, 1988 save as provided herein and manufactured on or after 1 st October, 2015 shall be equipped or fitted by the Vehicle manufacture, either at the manufacturing stage or at the dealership stage,

S. No.	Directions issued by the Hon'ble Court	Ministry's comments
		with a speed governor (speed limiting device or speed limiting function) having maximum pre-set speed of 80 kilometre per hour conforming to the Standard AIS 018/2001 as amended from time to time.
3.	Modern gadgets like speed gun, speed indication display and drones should be used to find out the speeding and drones should be used to find out the speeding vehicles to punish the driver.	A. The Motor Vehicles (Amendment) Act, 2019 has inserted Section 136(A) for electronic monitoring and enforcement of Road Safety which empowers State Government to ensure electronic monitoring and enforcement of Road and safety on National Highways, State Highways, Road or any urban city within a State as per the Rules made by Central Government, including speed cameras, close circuit television cameras, speed guns, body wearable cameras and such other technology. Rules for the same have been formulated and notified.(copy enclosed)
4.	The violation of road traffic rules should be strictly punished in accordance with law.	<p>B. As per Section 183 of Motor Vehicles Act, 1988 regarding driving at excessive speed etc:-</p> <p>(1) Whoever drives or causes any person who is employed by him or subjects someone under his control to drive a motor vehicle in contravention of the speed limits referred to Section 112 shall be punishable in the following manner, namely:-</p> <p>Where such motor vehicle is a light motor vehicle with fine which shall not be less than one thousand rupees but may extend to tow thousand rupees;</p> <p>Where such motor vehicle is a medium goods vehicle or a medium passenger vehicle or a heavy goods vehicle or heavy passenger vehicle with fine which shall not be less than two thousand rupees, but may extend to four thousand rupees; and</p> <p>For the second and subsequent offence under this sub-section the driving licence of such driver shall be impounded as per the provisions</p>

S. No.	Directions issued by the Hon'ble Court	Ministry's comments
		<p>of the sub-section (4) of section 206.</p> <p>(2) No person shall be convicted of an offence punishable under sub-section (1) solely on the evidence of one witness to the effect that in the opinion of the witness such person was driving at a speed which was unlawful, unless that opinion of the witness such person was driving at a speed which was unlawful, unless that opinion is shown to be based on an estimate obtained by the use of some mechanical or electronic device.</p> <p>(3) The publication of a time table under which or the giving of any direction that any journey or part of a journey is to be completed within a specified time shall if in the opinion of the Court it is not practicable in the circumstances of the case for that journey or part of a journey to be completed in the specified time without contravening the speed limits referred to in section 112 be prima facie evidence that the person who published the time table or gave the direction has committed an offence punishable under sub-section (1).</p> <p>(C) As per section 206(4) of Motor Vehicles Act, 1988:- A police officer or other person authorised in this behalf by the State Government shall, if he has reason to believe that the driver of a motor vehicle has committed an offence under any of the Sections 183, 184, 185, 189, 190, 194C, 194D or 194E, seize the driving licence held by such driver and forward it to be licensing authority for disqualification or revocation proceedings under section 19.</p> <p>D. Implementation of the provisions of Motor Vehicles Act, 1988 and Central Motor Vehicles Rules 1989 and comes under the purview of State Governments /UTs.</p>
5.	Import vehicles with	The imported vehicles, irrespective of rated

S. No.	Directions issued by the Hon'ble Court	Ministry's comments
	high speed engines should be calibrated in such a manner that the vehicle does not exceed the permitted speed limit.	speed, are required to follow the maximum speed limit regulations as notified by Central Government or State Government. Further, imported transport vehicles need to follow the restrictions of 80/60 kmph as the case may be with calibration of ECU (Electronic Control Unit). Implementation of the provisions of Motor Vehicles Act, 1988 and Central Motor Vehicles Rules, 1989 comes under the purview of State Governments/ UTs.
6.	The license seekers have to be taken to hospitals, where the accident victims are taking treatment, so that evil consequences of violation of road rules would be understood properly by first-hand information.	As per sub-section (2) of Section 200 of Motor Vehicles Act, 1988:- Where an offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of such offence; Provided that, notwithstanding compounding under this section, such offence shall be deemed to be a previous commission of the same offence for the purpose of determining whether a subsequent offence has been committed; Provided further that compounding of an offence will not discharge the offender from proceedings under sub-section (4) of Section 206 or the obligation to complete a driver refresher training course, or the obligation to complete community service, if applicable.
7.	The speed breakers should have been laid according to the road safety measures, so that speed breakers themselves becoming black spots could be avoided.	Ministry has issued a circular for removal of speed breakers on National Highways vide:- RW/NH-33037/01/2016/S&R (R) dated 11 th April 2016. 2. IRC 99-2018 has laid down "Guidelines for traffic calming measures in urban and rural areas". (copy enclosed)
8.	The Special Courts should be constituted to	Pertains to State Government.

S. No.	Directions issued by the Hon'ble Court	Ministry's comments
	deal with traffic offences and the accident claim cases, so that criminal case arising out of the accident, and the claim arising out of the same accident could be dealt with by the Special Courts together comprehensively.	
9.	Hence, the State Government is directed to rope in the celebrities to spread the message of road discipline through media, as they also have the social responsibility for an orderly and disciplined society.	
10.	The State Government is directed to arrange for lectures by experts, doctors, social workers etc. to the licence seekers, stressing upon the necessity to follow road rules, before the licence is given.	
11.	The Respondent Government are directed to identify the Accident prone zone/black spots and to station the mobile trauma units/Ambulance there.	<p>1. Ministry has issued guidelines/ circulars for rectification of black spots so that the road accidents could be minimized.</p> <p>2. Ministry has defined Protocol for identification /Rectification of Black spot as per following circulars.</p> <p>(i) RW/NH-15017/109/2015-P&M (RSCE) dated 28.10.2015;</p> <p>(ii) RW//NH-29011/02/2015-P&M (RSCE) dated 07.12.2015;</p> <p>(iii) RW/NH-29011/08/2019-S&R (P&B) dated 26.08.2019;</p>

S. No.	Directions issued by the Hon'ble Court	Ministry's comments
		3. So far about 695 number of black spots on National Highways in the State of Tamil Nadu have been identified. Out of these 695 BS, 228 Nos. have been permanently rectified and are being monitored and maintained for no accident and rest are under the process of rectification. (copy enclosed)
12.	The Respondent /Government shall illuminate intersections on the Highways with high power lights to indicate the drivers about the intersections which would make drivers to slow their vehicles.	Lighting at select locations of NHs have been prescribed in IRC code of practice 1. IRC SP-73 Manual of specifications and Standards for two laning of Highways with paved shoulder; 2. IRC SP-84 Manual of Specifications and standards for four laning of Highways.

”

6. This Court appreciates the compliance of the order passed by this Court except the first query with regard to reconsidering the decision taken in April 2018 to increase the speed limit. It is stated in reply regarding the query number (1) reconsideration of increasing speed limit as per the recommendations of the Expert Committee constituted, the maximum speed for vehicles on different roads have been revised by the Ministry vide notification S.O. 1522 (E) dated 6th April 2018, due to better engine technology and improved road infrastructure. Though there is a better engine technology and improved road infrastructure, however, there is no improvement in compliance of the road rules by the motorists. From the report released by the Ministry of Road

Transport and Highways, as highlighted by this Court in earlier paragraphs, the number of deaths taking place on the road would prove that more accidents are occurring on road, due to over speeding, especially data regarding accidents due to over speeding in the year 2017 – 66.7%, in the year 2018 – 55.73% and in the year 2019 – 64.4%. When over speeding is a major cause for road accidents, it is not known as to how the improvement in the road infrastructure and engine technology would reduce accidents. In fact, better engine technology would always be a reason for uncontrolled speed and thereby, cause more number of accidents.

7. Having known that over speeding is the main cause for road accidents, taking away the precious lives of people and causing damage to properties, the decision taken by the Fourth Respondent, as reflected in the notification dated 06.04.2018 is liable to be quashed. This Court, *suo motu*, invokes Article 227 of the Constitution, taking into account the fact that figures given in the report published by the Fourth Respondent and various other reports. This Court also recalls the statement of 'jeopardize', the life of motorists and other travellers and offending other road users, violating rights contemplated under Article 21 of the Constitution. Therefore, notification dated 06.04.2018 is quashed. Speed limit is directed to be reduced as per the earlier notification dated 05.08.2014

and the following are the maximum speed prescribed in respect of different class of motor vehicles in that notification :-

<i>S.No.</i>	<i>Class of Motor Vehicles</i>	<i>Maximum speed per hour in kilometres</i>
(1)	(2)	(3)
1	Motor vehicles used for carriage of passengers comprising nine or more seats in addition to the driver's seat	80
2	Motor vehicles used for carriage of passengers comprising not more than eight seats in addition to the driver's seat	100
3	Motor vehicles used for carriage of goods	80
4	Quadricycle	70
5	Three wheeled vehicles	60
6	Motor cycles	80

8. The Fourth Respondent is directed to issue consequential notifications. The State Government also shall take into consideration of the orders passed by this Court. The State Government has filed a report dated 20.07.2021, with regard to the directions given by this Court :-

2. On 30.03.2021 the Hon'ble High Court of Madras in C.M.A. No. 595 of 2019 and C.M.P. no. 1887 of 2019 has given the following directions regarding the

(1) Modern gadgets like speed gun, speed indication display and drones should be used to find out the speeding vehicle to punish the driver.

(2) *The violators of road traffic rules should be strictly punished in accordance with law.*

(3) *Important vehicles with high speed engines should be calibrated in such a manner the vehicle does not exceed the permitted speed limit.*

(4) *The license seekers have to be taken to hospitals, where the accident victims are taking treatment, so that evil consequences of violation of road rules would be understood properly by first hand information.*

(5) *The speed breakers should have been laid according to the road safety measures, so that speed breakers themselves becoming black spots could be avoided.*

(6) *Celebrities may be rope in to spread the message of road discipline through media, as they also have the social responsibility for an orderly and disciplined society.*

(7) *Arrange for lectures by experts, doctors, social workers etc. to the licence seekers, stressing upon the necessity to follow road rules, before the licence is given.*

(8) *Identify the Accident prone zone/black spots and to station the mobile trauma units/Ambulances there.*

(9) *Illuminate intersections on the Highways with high power lights to indicate the drivers about the intersections which would make drivers to slow their vehicles.*

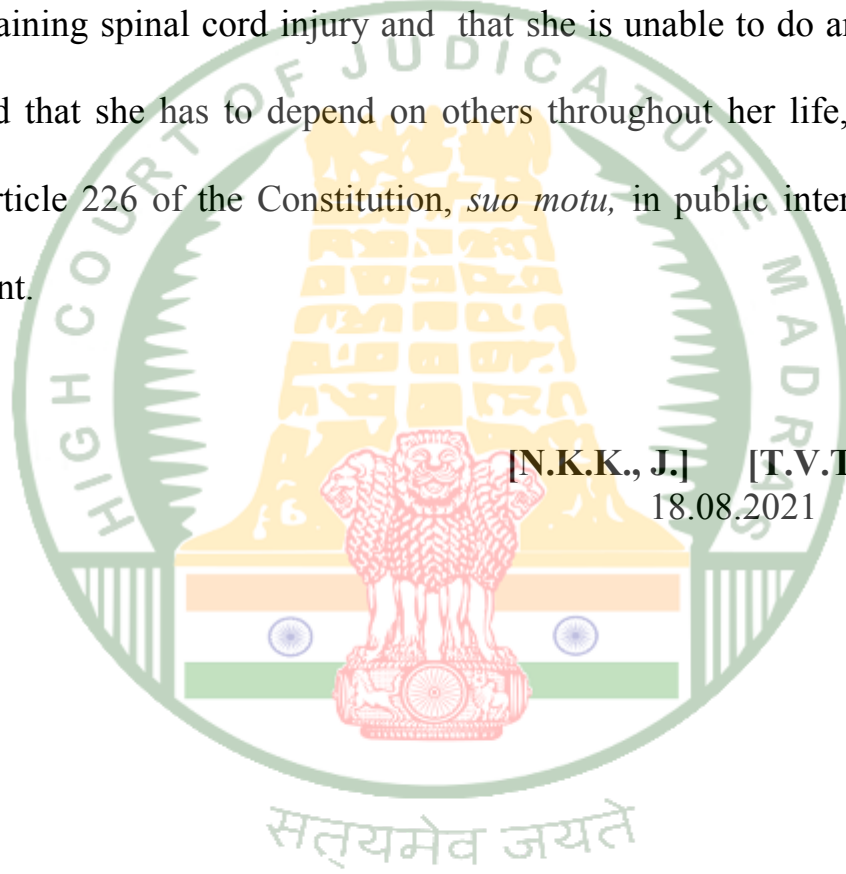
Though the directions given by this Court have been adhered to, nothing has been mentioned about the speed limit. In view of that, the State Government is also directed to issue notification, with regard to the speed limit, as per the

earlier notification dated 05.08.2014, taking note of the quashing of the notification dated 06.04.2018 issued by the Central Government.

9. Though the matter arises under the Motor Vehicles Act, taking note of a Dentist sustaining spinal cord injury and that she is unable to do any work on her own and that she has to depend on others throughout her life, this Court invoking Article 226 of the Constitution, *suo motu*, in public interest, passed this Judgment.

[N.K.K., J.] [T.V.T.S., J.]
18.08.2021

Maya

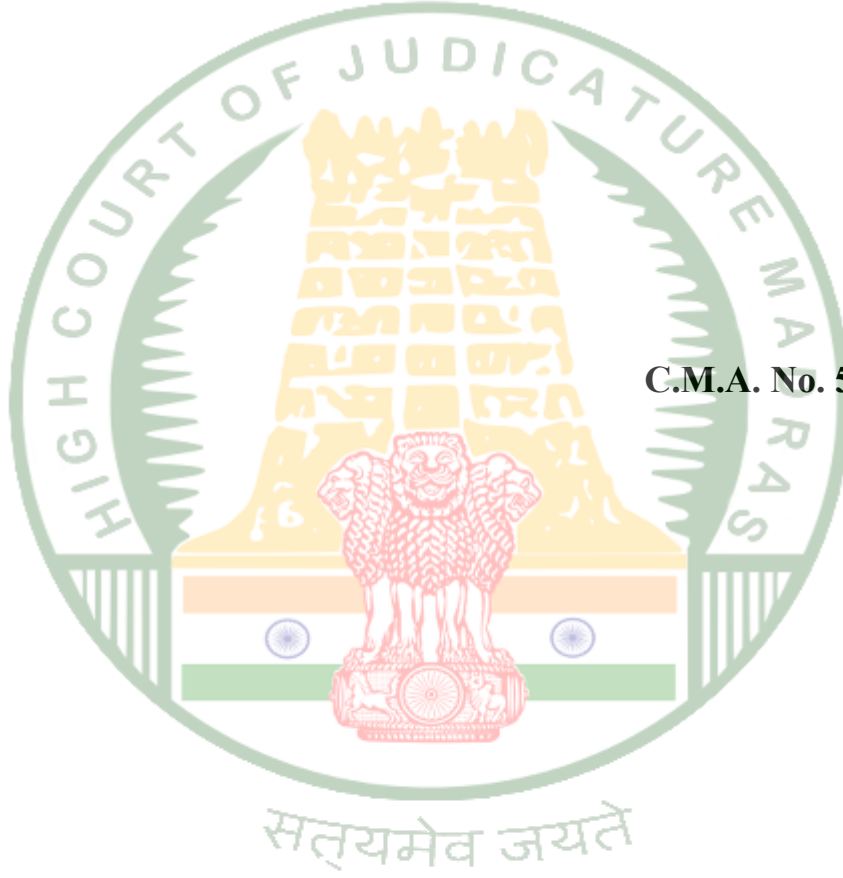


WEB COPY

C.M.A. No. 595 of 2019

**N.KIRUBAKARAN, J.
and
T.V.THAMILSELVI, J.**

Maya



C.M.A. No. 595 of 2019

WEB COPY

Dated : 18.08.2021