



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Miscellaneous Appeal No.2621 of 2022

and

C.M.P.No.20404 of 2022

The Divisional Manager,
United India Insurance Co.Ltd.,
No.261, J.N.Street,
Puducherry, Now at Plot No.35, 36, 37, AR Plaza,
Balaji Nagar Extension, Saram, Pondicherry.

..Appellant

Vs

1. Faridha Beevi
W/o.Noorullah
2. Ibrahim
S/o.Noorullah
3. Rehamathunissa
D/o.Noorullah
4. Mohamadhusain
S/o.Noorullah
5. Elangovan
S/o.Rajasekara Udayar
6. Laila
W/o.Idayat
7. The Divisional Manager
New India Insurance Co. Ltd.
No.264, J.N.Street, Puducherry.

..Respondents



Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 25.02.2020 in M.C.O.P.No.106 of 2016 passed by the III Additional District Judge, Motor Accident Claims Tribunal, Puducherry.

For Appellant : Mr.P.Sankaranarayanan
For Respondents : No appearance [R1 to R6]
Mr.S.R.Sundar [R7]

JUDGMENT

This appeal has been filed challenging the award passed by learned III Additional District Judge, Puducherry, in M.C.O.P.No.106 of 2016 dated 25.02.2020.

2. The first claimant is the wife and the claimants 2 to 4 are the children of the deceased Noorullah. The case of the claimants is that on 23.11.2013 at about 07.20 hours, the deceased was riding a two wheeler at M.G.Road and at that point of time, a bus bearing registration No.PY-01-X-0666 was driven in a rash and negligent manner and it hit the two wheeler, as a result of which, the deceased lost his balance and he was subsequently dashed by the Vikram tempo bearing Registration No.PY-01-D-9829, which was coming behind. In this accident, the deceased sustained grievous injuries and he succumbed to the injuries on 24.11.2013. A First Information Report came to be registered in Crime No.558 of 2013 both against the driver of the bus as well the driver of the tempo. It is under these circumstances, the claim petition came to be filed before the Tribunal.



3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of evidence, came to the conclusion that both the bus as well as the tempo were responsible for the accident and therefore, fixed 50% negligence on the driver of each vehicle. Having rendered the above finding, the Tribunal fixed total compensation at Rs.12,68,000/- under the following heads:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income	11,88,000/-
2.	Spousal consortium	40,000/-
3.	Loss of estate	15,000/-
4.	Funeral expenses	15,000/-
5.	Transportation	10,000/-
	Total	12,68,000/-

The deceased was not wearing helmet and therefore, deducted 10% towards contributory negligence and directed a sum of Rs.11,41,200/- to be paid as compensation with interest at the rate of 7.5% p.a. by the appellant insurance company, which was the insurer of the tempo and the seventh respondent insurance company, which is the insurer of the bus. Aggrieved by the same, the insurer of the tempo has filed the present appeal before this Court.

4. Heard the learned counsel for the appellant and the learned counsel for the seventh respondent. Though notice has been served on the respondents 1 to



6 and their names have been printed in the cause list, there is no appearance on their behalf either in person or through a pleader.

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5. The main ground urged by the learned counsel for appellant is that the Accident Inspection Report [Ex.P11] and also the Accident Register [Ex.R4] clearly established that the tempo was not at all involved in the accident. It is further submitted that PW-1 was not an eye witness in this case and what was available before the Tribunal was only the version given by PW-1 and the other documents, which were relied upon by the Tribunal. Even in the earliest document viz., Accident Register, it is stated that the two wheeler was hit by a bus and was thrown over a running tempo. Apart from that, the Accident Inspection Report shows that the tempo did not suffer any damage whatsoever. In view of the same, it is contended that the Tribunal went wrong in attributing 50% contributory negligence on the tempo, whereas, the entire negligence ought to have been fixed on the driver of the bus, which was insured with the seventh respondent herein.

6. *Per contra*, learned counsel for the seventh respondent submitted that the initial impact was due to the two wheeler dashing on the bus and thereafter, it was the tempo, which had hit the deceased, owing to which the deceased sustained serious head injuries. Thus, cumulatively, on appreciation of evidence, the Tribunal came to the conclusion that 50% negligence has to be



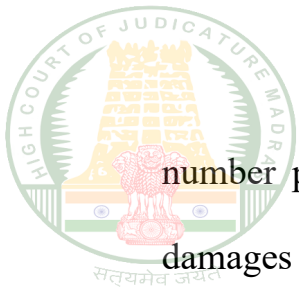
fixed on the bus as well as on the tempo and this finding does not suffer from any perversity warranting interference of this Court.

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7. This Court considered the submissions made on either side and the materials available on record. This Court also went through the award passed by the Tribunal.

8. On the side of claimants, PW-1, who is the son of the deceased, was examined. He was the one, who had given the complaint, which resulted in the registration of First Information Report [Ex.P1]. Admittedly, he was not an eye witness and as per the complaint given by him, he has stated that the two wheeler driven by his father was hit by the bus, due to its impact, his father lost balance and he was hit by the tempo coming behind and his father sustained serious head injuries. As per the postmortem certificate [Ex.P2], the death has taken place due to the head injury suffered by the deceased.

9. In the Accident Register, it is seen that one Raju had taken the deceased to the hospital and had informed the Doctor that the deceased, who was travelling in a two wheeler was hit by the bus and was thrown over a running tempo. The Accident Inspection Report [Ex.P11] shows that there was heavy damage to the bus, on the front side bumper and the corner body of the bus. Insofar as two wheeler is concerned, there was damage on the front body,



number plate, brake lever, side view mirror and the fork was also bent. No damages were deducted in the tempo.

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10. Unfortunately in this case, both the insurance companies did not take any steps to let in contra evidence or at least call the person, who had admitted the deceased in the hospital as a witness to ascertain the exact manner in which this accident had taken place.

11. In the absence of any eye witness account, the Court has to necessarily assess the evidence and come to a conclusion. In the case in hand, the accident would not have taken place if not for the bus hitting the two wheeler. The impact with which the bus had dashed on the two wheeler is quite evident from the Accident Inspection Report. The tempo was coming behind and the deceased, by then, dashed on the bus and on its impact, the tempo dashed on the deceased and the deceased sustained head injuries. The proximate cause of the accident was the bus and the residual cause was the tempo, which was coming behind the two wheeler. In view of the same, the Tribunal was not right in attributing 50% negligence on the tempo, which was insured with the appellant insurance company.

12. Considering the facts and circumstances of the case and considering the evidence available on record, this Court is of the view that the tempo cannot



be completely exonerated from the liability for the simple reason that the tempo could have averted the accident if it had come slowly and since the tempo was also driven at a considerable speed it resulted in the tempo hitting the deceased, who, thereafter, sustained a head injury. Hence, this Court is inclined to fix 80% negligence on the bus and 20% negligence on the tempo. To that extent, the negligence fixed by the Tribunal stands modified.

13. Insofar as compensation fixed by the Tribunal is concerned, it is seen that the same is reasonable and it does not require the interference of this Court.

In the result, this appeal is partly allowed and the liability of the appellant insurance company is fixed at 20% and the liability of the seventh respondent insurance company is fixed at 80%. In view of the same, there shall be a direction to the seventh respondent insurance company to deposit 80% of the compensation amount along with interest after deducting the amount already deposited to the credit of M.C.O.P.No.106 of 2016 on the file of III Additional District Court, Motor Accident Claims Tribunal, Puducherry, within a period of six (6) weeks from the date of receipt of a copy of this order. Pursuant to the interim order passed by this Court on 29.11.2022, the appellant insurance company has already deposited 50% of the award amount along with proportionate interest. In the light of the modification of the award, out of the compensation deposited by the appellant insurance company, their liability to



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the tune of 20% along with accrued interest shall be retained and the balance amount along with accrued interest shall be permitted to be withdrawn by the appellant insurance company. The claimants shall be permitted to withdraw the compensation deposited by the appellant as well as the seventh respondent insurance company in the proportion fixed by the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

08-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To
The III Additional District Judge,
Motor Accident Claims Tribunal,
Puducherry.

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