

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Miscellaneous Appeal No.1210 of 2025
& Cross Objection No.53 of 2025
& CMP.No.9972 of 2025

CMA.No.1210 of 2025

The Managing Director
Tamil Nadu State Transport
Corporation Ltd.,
Chennimalai Road,
Erode - 638 001.

...Appellant

Vs

1. Sumathi
W/o. Late. Dhamotharan,
No.138, Vadukar Street,
Mohanur, Namakkal 637 015.
2. Sowmiya
D/o Late.Dhamotharan
D.No.138, Vadukar Street,
Mohanur, Namakkal - 637 015.
3. Brindha
D/o Late.Dhamotharan
at D.No.138, Vadukar Street,
Mohanur, Namakkal - 637 015.

4. Sornambal
W/o Late. Thirupathi Chettiyar
2/28, Near Easwaran Kovil,
Nadutholur, Tholur,
Namakkal - 637017
5. P.Arun kumar
S/o G.Palanisamy,
Nagamananaickenpalayam,
Avudaiyarparai (PO) Kodumudi Via,
Erode- 638151.

...Respondents

CROSS OBJ. No.53 of 2025 :

1. Sumathi,
W/o. Late. Dhamotharan,
No.138, Vadukar Street, Mohanur,
Namakkal 637 015.
2. Sowmiya
D/o. Late. Dhamotharan,
No.138, Vadukar Street, Mohanur,
Namakkal 637 015.
3. Brinda
D/o. Late. Dhamotharan,
No.138, Vadukar Street, Mohanur,
Namakkal 637 015.
4. Sornambal
W/o Late. Thirupathi Chettiyar 2/28,
Near Easwaran Kovil, Nadutholur,
Tholur, Namakkal - 637017

...Cross Objectors

Vs

1. The Managing Director
Tamil Nadu State Transport
Corporation Ltd. Chennimalai Road,
Erode - 638 001.
2. P.Arun, S/o G.Palanisamy,
Nagamananaickenpalayam,
Avudaiyarparai (PO) Kodumudi Via,
Erode- 638151.

...Respondents

APPEAL under Section 173 of the Motor Vehicles Act, 1988
against the award dated 03.1.2024 made in MCOP.No.377 of 2020
on the file of the Special District Judge, Erode (to deal with MCOP
Cases), Erode.

CROSS OBJECTION under Order XLI Rule 22 of the Civil
Procedure Code against the award dated 03.1.2024 made in MCOP
No.377 of 2020 on the file of Special District Court (to deal with
MCOP Cases), Erode.

For Appellant in
CMA.No.1210 of 2025
& R1 in Cross.Obj.No.
53 of 2025:

: Mr.M.Murali Vinodh

For R1 to R4 in
CMA.No.1210 of 2025
& Cross Objectors in

Cross Obj.No.53 of
2025 : Mr.Ma.P.Thangavel

R5 in CMA.No.1210 of
2025 : Notice dispensed with

COMMON JUDGMENT

The appeal has been filed by the Transport Corporation challenging the award dated 03.1.2024 made in MCOP.No.377 of 2020 on the file of the Special District Court (to deal with MCOP Cases), Erode.

2. The cross objection has been filed by the claimants seeking for enhancement of compensation.

3. Heard the learned counsel for the Transport Corporation and the learned counsel appearing for the claimants.

4. The first claimant is the wife; claimants 2 and 3 are the children; and the fourth claimant is the mother of one Mr.Dhamotharan (since deceased).

5. The facts leading to filing of these cases are as follows:

(i) On 14.2.2020, the said Mr.Dhamotharan was riding a two wheeler from east to west direction at Erode – Perundurai Road and at about 9 AM, when the two wheeler was proceeding near Thindal Villarasampatti Pirivu, the bus belonging to the Transport Corporation, which was driven in a rash and negligent manner, hit the two wheeler, as a result of which, the rear wheel of the bus ran over the body of the said Mr.Dhamotharan, on account of which, he sustained fatal injuries and later, succumbed to the injuries.

(ii) A first information report (FIR) came to be registered in Crime No.85 of 2020 on the file the Inspector of Police, Erode Taluk Police Station against the driver of the bus namely the fifth respondent in the appeal/second respondent in the cross objection. It was under those circumstances, the claim petition came to be filed before the Tribunal below.

(iii) The Tribunal below, on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to the conclusion that the accident occurred due to the negligence on the part of both the driver of the

bus as well as the deceased and accordingly, fixed 80% negligence on the part of the driver of the bus and 20% contributory negligence on the part of the deceased.

(iv) Having rendered the above finding, the Tribunal below proceeded to fix the total compensation of Rs.24,38,300/- under the following heads:

<i>S.No.</i>	<i>Head of compensation</i>	<i>Amount</i>
1	<i>Loss of dependency</i>	<i>Rs.21,93,750/-</i>
2	<i>Loss of spousal consortium</i>	<i>Rs. 48,400/-</i>
3	<i>Loss of parental consortium for petitioners 2 & 3</i>	<i>Rs. 96,800/-</i>
4	<i>Loss of filial consortium for the 4th petitioner</i>	<i>Rs. 48,400/-</i>
5	<i>Funeral expenses</i>	<i>Rs. 18,150/-</i>
6	<i>Loss of estate</i>	<i>Rs. 18,150/-</i>
7	<i>Damages to clothing & articles</i>	<i>Rs. 2,000/-</i>
8	<i>Medical expenses</i>	<i>Rs. 3,250/-</i>
9	<i>Transport expenses</i>	<i>Rs. 9,400/-</i>
	<i>Total</i>	<i>Rs.24,38,300/-</i>

(v) From the above compensation amount of Rs.24,38,200/- 20% was deducted towards contributory negligence on the part of the deceased and a total of Rs.19,50,640/- was directed to be paid with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. Aggrieved by that, the Transport

Corporation has filed the appeal on the ground that a higher percentage of contributory negligence must have been fixed against the deceased. Further, the claimants have filed the cross objection on the ground that the total compensation granted by the Tribunal below requires enhancement.

6. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned award.

7. This Court will first deal with the negligence aspect.

8. On the side of the claimants, PW2 was examined as an eyewitness. On the side of the Transport Corporation, RW1, who was the driver of the bus was examined as a witness.

9. PW2, in his evidence, stated that he was riding a two wheeler near the place of accident, that he saw the deceased coming in front and that the bus belonging to the Transport

Corporation dashed against the two wheeler, as a result of which, the deceased fell down and sustained fatal injuries.

10. The evidence of PW2, who was an eyewitness, has not been discredited during cross examination.

11. RW1 was none other than the driver of the bus belonging to the Transport Corporation. He was shown as an accused in the FIR. Apart from that, a final report had already been filed on completion of investigation. The final report was marked as Ex.P.7, which would further establish the negligence on the part of the driver of the bus. In view of the same, RW1 would give evidence only in his own favour as against the evidence of the eyewitness. However, the Tribunal below has to necessarily add more weightage to the evidence of the eyewitness.

12. The Tribunal below, while dealing with this issue, had taken into consideration the report of the Motor Vehicles Inspector marked as Ex.P.4 and came to the conclusion that there was some

percentage of contributory negligence on the part of the deceased based on the damage that was caused to the bus.

13. While dealing with the evidence, the Tribunal below is governed by the principle of preponderance of probabilities. The report of the Motor Vehicles Inspector cannot outweigh the eyewitness's account in this case. Therefore, in the considered view of this Court, the Tribunal below went wrong in attributing 20% contributory negligence as against the deceased. This Court holds that the accident had taken place only due to the rash and negligent driving on the part of the driver of the bus belonging to the Transport Corporation.

14. In so far as the issue of quantum of compensation is concerned, the accident had taken place in the year 2020 and the deceased was aged 49 years at the time of accident. He was working in a private concern. He had left behind his wife; two daughters; and mother as dependants. The Tribunal below fixed the notional monthly income at Rs.15,000/-, which is on the lower side.

Hence, this Court is inclined to fix the notional monthly income at Rs.18,500/-. Accordingly, the compensation under the head 'loss of dependency' is calculated as follows:

$$\begin{aligned} & \text{"Rs.18,500 + Rs.4,625/- (towards 25\% future} \\ & \text{prospects) = Rs.23,125/- X 12 X 13 X } \frac{3}{4} = \\ & \text{27,05,625/-."} \end{aligned}$$

15. The Tribunal below granted compensation towards consortium under three different heads and this Court is inclined to consolidate all the three heads and grant compensation under a single head as loss of consortium at Rs.44,000/- each to all the claimants and in all Rs.1,76,000/-.

16. The compensation amount fixed under the head 'funeral expenses' is reduced to 15,000/-. The compensation fixed under the head 'loss of estate' is reduced to Rs.15,000/-. However, the compensation fixed under the other heads is found to be just and proper and hence, it is retained.

17. In the light of the above discussions, CMA.No.1210 of 2025 filed by the Transport Corporation is dismissed and Cross Objection No.53 of 2025 filed by the claimants is allowed and the total compensation amount granted by the Tribunal below is modified as follows:

<i>S.No.</i>	<i>Head of compensation</i>	<i>Amount awarded by the Tribunal below</i>	<i>Amount awarded by this Court in this judgment</i>
1	<i>Loss of dependency</i>	<i>Rs.21,93,750/-</i>	<i>Rs.27,05,625/-</i>
2	<i>Loss of spousal consortium</i>	<i>Rs. 48,400/-</i>	
3	<i>Loss of parental consortium for petitioners 2 & 3</i>	<i>Rs. 96,800/-</i>	<i>Rs. 1,76,000/-</i>
4	<i>Loss of filial consortium for the 4th petitioner</i>	<i>Rs. 48,400/-</i>	<i>(Rs.44,000/- each)</i>
5	<i>Funeral expenses</i>	<i>Rs. 18,150/-</i>	<i>Rs. 15,000/-</i>
6	<i>Loss of estate</i>	<i>Rs. 18,150/-</i>	<i>Rs. 15,000/-</i>
7	<i>Damages to clothing & articles</i>	<i>Rs. 2,000/-</i>	<i>Rs. 2,000/-</i>
8	<i>Medical expenses</i>	<i>Rs. 3,250/-</i>	<i>Rs. 3,250/-</i>
9	<i>Transport expenses</i>	<i>Rs. 9,400/-</i>	<i>Rs. 9,400/-</i>
	<i>Total</i>	<i>Rs.24,38,300/-</i>	<i>Rs.29,26,275/-</i>

The above modified compensation of Rs.29,26,275/- (Rupees twenty nine lakhs twenty six thousand two hundred and seventy five only) shall deposited by the Transport Corporation together with accrued interest at the rate of 7.5% per annum from the date of petition till the date of deposit within a period of six weeks from the date of

receipt of a copy of this judgment. No costs. Consequently, the connected CMP is also dismissed.

09-07-2026

To

- 1.The Special District Court (to deal with MCOP
- 2.The Managing Director, Tamil Nadu State Transport Corporation Ltd.
Chennimalai Road, Erode - 638 001.

RS

CMA.No.1210 of 2025 &
Cross Objection No.53 of 2025

N.ANAND VENKATESH,J

RS

**CMA.No.1210 of 2025 and
CROSS OBJ.No.53 of 2025
& CMP No.9972 of 2025**

09-07-2026