



**C.M.A(MD)No.1248 of 2023**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 07.12.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN**

**C.M.A(MD)No.1248 of 2023**

**and**

**C.M.P.(MD) No.16542 of 2023**

The Managing Director,  
M/s.Tamil Nadu State Transport Corporation,  
(Division – II), Ltd.,  
Periyamilaguparai,  
Collector Office Road,  
Tiruchirapalli -1.

... Appellant

.VS.

1.Kanaga

2.Divakar

3.Divya

... Respondents

**PRAYER:** Civil Miscellaneous Appeal filed under Section 173 of the M.V.Act, 1988, to set aside the order dated 29.06.2022 made in MCOP.No.824 of 2016 on the file of the Motor Accident Claims Tribunal/the learned Special District Judge, Tiruchirappalli.

For Appellant :Mr.K.Ramaiah



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### **JUDGMENT**

This appeal is filed challenging the liability to pay the compensation and the quantum of compensation.

2.The respondents/claimants filed the claim petition seeking compensation of Rs.15,00,000/- for the death of one Dhanaraj in a road accident. The claimants are his wife and children. On the ill fated day, ie., on 06.04.2015, at about 10.45 hours., the deceased was riding his two wheeler bearing Reg.No.TN 48 Q 4892 in Kolakkanatham to Trichy Road on the extreme left side of the road. When he came near Lakshmi land, Varakuppai, a bus bearing Reg.No.TN 45 N 2760 was driven by its driver in a rash and negligent manner from west-east direction and hit against the deceased. As a result, the deceased suffered injuries and succumbed to the injuries. The deceased was an agriculturist and was earning a sum of Rs.15,000/- per month. He was the sole bread winner of the family and due to his sudden demise, the claimants/respondents find it very difficult to make both the ends meet. In the said circumstances, the claim petition was filed.



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3.In the counter, it is stated by the respondents that on 06.04.2015, the bus bearing Reg.No.TN 45 N 2760 on its regular trip from Ariyalur to Kolakanatham was driven by its driver near Varakuppai village from west-east direction. At the place of the accident, the road was bending towards south. The respondent corporation bus driver was about to take right turn at bend, the rider of the two wheeler came from the opposite direction in a rash and negligent manner on the right side of the road and hit against the bus. As a result, the accident had happened. The respondent corporation driver was not responsible for the accident. The quantum of compensation claimed is also excessive.

4.During the enquiry before the trial Court, P.W1 and P.W2 were examined and Ex.P1 to Ex.P12 were marked. R.W1 and R.W2 were examined and Ex.X1 and Ex.X2 were marked.

5.On the basis of the oral and documentary evidence, the learned Tribunal found that the respondent corporation driver was 80% responsible for the accident and the deceased was 20% responsible for the accident. Adopting the notional income of Rs.9,000/- per month, the learned Tribunal had arrived at compensation of Rs.10,10,600/-. After



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deducting 20% of this amount towards contributory negligence on the part of the deceased, the respondents/claimants were awarded a sum of Rs.8,08,480/-. Challenging this award, this appeal is filed.

6.It is the submission of the learned counsel for the appellant that the deceased was mainly responsible for the accident and therefore, the apportionment at 80% on the respondent corporation driver and 20% on the deceased is not correct. If at all any apportionment is to be made, the deceased must be held to have contributed to the accident at least 50%. He further submitted that the notional income of the deceased fixed at Rs.9,000/- per month is excessive.

7.Considered the rival submissions and perused the records.

8.As per the counter affidavit filed by the respondents, the case of the appellant is that the transportation corporation driver was proceeding the bus from west-east direction and at the place of the accident, the road takes a turn towards south. The deceased, who was coming from south, should have come on the left side of the road, but he came on the right side of the road and had mainly contributed to the accident. However,



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from the evidence produced, especially the rough sketch, it is seen that the place of accident is a open place. The driver of the bus had clear visibility of the road. He could have avoided the accident by driving the bus within the speed limit. If he had driven the bus within the speed limit, though the accident had happened, that would not have resulted in the death of the deceased. Thus, there is every possibility that the transport corporation driver was driving the bus in a rash and negligent manner and mainly contributed to the accident. Taking into consideration the contributory negligence on the part of the deceased, the learned Tribunal had apportioned the responsibility for the accident at 20% on the deceased. This apportionment, in the considered view of this Court, is just and appropriate and needs no interference.

9. With regard to quantum of the compensation, the deceased was aged 53 years. Even by doing some physical work, he could have easily earned not less than Rs.9,000/- per month. Thus, fixing a sum of Rs. 9,000/- per month as notional income and calculating the compensation are just and appropriate. The respondents/claimants were awarded a just and reasonable compensation and therefore, it does not require any interference from this Court.



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10. In this view of the matter, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes/No  
Internet : Yes/No  
NCC : Yes/No

**07.12.2023**

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To

The Special District Judge,  
Tiruchirapalli.



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**G.CHANDRASEKHARAN,J.**

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