



C.M.A.No.716 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2024

C O R A M

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No.716 of 2024

and

C.M.P.No.6587 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation (Villupuram Dvn-1) Ltd.,
No.3/137, Salamedu,
Vazhuthareddy Post,
Villupuram 605 401.

...Appellant

Vs

1.Kasinathan
2.Anjalatchi
3.Sivaranjini
4.Sathishkumar
5.IFFCO TOKIO General Insurance Co. Ltd.,
No.28, North Usman Road,
T.Nagar, Chennai 600 017.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment made in MCOP.No.171 of 2016 dated 25.01.2023 on the file of the Motor Accident Claims Tribunal (Special District Court) Villupuram and allow this appeal.



WEB COPY



C.M.A.No.716 of 2024

For Appellant : Mr.T.Chandrasekaran

For Respondent : Mr.L.Ramanathan for R1 to R3

JUDGMENT

This civil miscellaneous appeal has been filed challenging the judgment and decree dated 25.01.2023 in MCOP.No.171 of 2016.

2. The learned counsel for the claimant would submit that on 05.01.2016, while one Silambarasan was riding his two-wheeler bearing Registration No.TN-15-8649 along with one pillion rider at Panruti-Cuddalore Road, a bus bearing Registration No.TN-32-N-3240 came in a rash and negligent manner and dashed against him due to which he was died on the spot. Considering all the aspects, the Tribunal had awarded the compensation in the following manner:

<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
1	Loss of Income	15,12,000
2	Funeral Expenses	15,000
3	Loss of Estate	15,000
4	Loss of Love and Affection	1,60,000
	Total	17,02,000



C.M.A.No.716 of 2024

WEB COPY

3. He would further submit that in the present case, the only issue involved is with regard to the fixation of negligence and fastening of liability against the bus driver. Further, he would submit that in an appeal in **CMA.No.638 of 2024**, which was filed by the claimant for the same subject matter, this Court had passed a judgment dated 21.03.2024, wherein it was held that the contributory negligence fixed by the Tribunal is just and fair and confirmed the same. When such being the case, the same would apply for the present case also.

5. In view of the above submission, it appears that in the very same subject matter, this Court had already passed a judgement dated 21.03.2024, wherein it has been held that the contributory negligence fixed by the Tribunal is just and fair and the same needs no interference. At this juncture, it would be apposite to extract the relevant portion of the said judgment, which reads as follows:

“6. Upon perusal of the records, it appears that the claimant/injured pillion rider was examined before the Tribunal as PW1. However, the driver of the bus, who gave



WEB COPY



C.M.A.No.716 of 2024

complaint, was not examined as witness before the Tribunal. Further, it appears that nothing has been culled out by the appellant from the deposition of PW1 in order to prove their contention. Under these circumstances only, the Tribunal came to the conclusion that the accident was occurred only due to the rash and negligence of the driver of the bus. In such case, this Court does not find any illegality in the award passed by the Tribunal. Therefore, since there is no merit in the submission made by the learned counsel for the appellant, this Court is inclined to dismiss the present appeal.”

6. Hence, by following the above judgment, this Court is inclined to confirm the contributory negligence fixed by the Tribunal. Accordingly, the same stands confirmed.

7. In the result, this Civil Miscellaneous Appeal is dismissed and the appellant is directed to deposit the amount awarded by the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.171 of 2016 on the file of the Motor Accidents Claims Tribunal,



C.M.A.No.716 of 2024

Special District Court, Villupuram. Upon such deposit, the Tribunal is directed to transfer the award amount to the bank account of the claimant, by way of RTGS, within a period of three weeks from the date of deposit and receipt of the Bank details obtained from the claimant. No costs. Consequently, the connected miscellaneous petition is also closed.

28.03.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
nsa



WEB COPY



C.M.A.No.716 of 2024

KRISHNAN RAMASAMY,J.

nsa

C.M.A.No.716 of 2024
& C.M.P.No.6587 of 2024

28.03.2024