



**C.M.A.(MD).No.319 of 2022**

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2024

CORAM

**THE HON'BLE MR.JUSTICE G.ILANGO VAN**

**C.M.A.(MD).No.319 of 2022**  
**and C.M.P.(MD).No.2911 of 2022**

M/s.Tamilnadu State Transport Corporation Limited,  
Rep. by its Managing Director,  
Tirunelveli. ... Appellant/2<sup>nd</sup> Respondent

Vs.

1.Kannammal

2.Maharajan

3.Krishnan ... Respondents/Petitioners

4.The Managing Director,  
Tamil Nadu State Transport Corporation Ltd.,  
Madurai. ... Respondent/1<sup>st</sup> Respondent

**PRAYER :** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to call for the records relating to the Award, dated 10.02.2021 passed in M.C.O.P.No.552 of 2017 by the Motor Accident Claims Tribunal/Special Sub Court, Tirunelveli and to set aside the same.

For Appellant : Mr.R.Rajamohan

For Respondents : Mr.R.Jim for R1 to R3  
R4 – No Appearance



C.M.A.(MD).No.319 of 2022

## **JUDGMENT**

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This appeal has been filed to set aside the Award, dated 10.02.2021 passed in M.C.O.P.No.552 of 2017 by the Motor Accident Claims Tribunal/Special Sub Court, Tirunelveli.

### **2.The facts in brief:**

On 21.11.2016 at about 7.20 p.m., the deceased was riding his two wheeler bearing registration No.72 AP 6816 on the Manur Etyankulam Main Road. At that time, the TNSTC bus bearing registration No.TN 74 N 1174 was driven by its driver in rash and negligent manner from west to east direction and caused the accident. The deceased was taken to Tirunelveli Medical College Hospital, Highgrounds, Palayamkottai, wherein he died. Claiming compensation amount of Rs.9,04,100/-, claim petition was filed.

3.That was resisted by the appellant herein by filing counter stating that the Bus bearing registration No.TN 74 N 1174 does not belong to the first respondent in the main petition. The first respondent namely the Managing Director, Tamil Nadu State Transport Corporation,



C.M.A.(MD).No.319 of 2022

Tirunelveli, has filed the counter affidavit, stating that the occurrence took place because of the rash and negligent driving on the part of the deceased. He drove the vehicle in drunken mode and invited the accident. So the appellant corporation is not liable to pay any compensation.

4.Regarding the first point of negligence, case was registered in Crime No.473 of 2016 by Manur Police station. It was stated that the occurrence took place, because of the rash and negligent driving on the part of the deceased. By invoking Section 163A of the MV Act, the tribunal passed the award.

5.Regarding the compensation, as per the amendment Act Rs.5,00,000/- under Section 163 (A) of the MV Act, was fixed as total compensation. Against which, this appeal is preferred by the Tamil Nadu State Transport Corporation Limited by its Managing Director, Tirunelveli.

6.Only limited point arises for consideration. Admittedly, the case



C.M.A.(MD).No.319 of 2022

was registered against the rider of two wheeler namely the deceased by the Manur Police Station in Crime No.473 of 2016. The claim petition was filed invoking Section 163A of the Motor Vehicles Act. When the deceased dashed by himself, unless there is personal accident coverage, the claimants are not entitled to claim compensation from other vehicle.

7.This is settled proposition of law as the Judgment passed by this Court in the case of *Poovalingam and another Vs. S.Malik Hussain and others* reported in **2023 (2) TNMAC 316 (DB)**. But, however, under Section 163(A) of the MV Act, the claimant is not required to prove negligent on the part of the offending vehicle's driver under Section 163A.

8.But, however, perusal of the orders of the Tribunal shows that by invoking Section 163 (A) of the MV Act, it has decided that the claimants are entitled for the compensation without proving the negligence on the part of any one. But, the Tribunal has missed an important point that a tortfeasor is not entitled for claim any compensation amount from any one, unless there is a personal accident



C.M.A.(MD).No.319 of 2022

coverage as mentioned above.

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9. But, even for claiming the personal accident coverage the insurer must be a party. But he is not added as a party. So the claimants have to approach the concerned insurance Company itself by way of claim form as per the procedure. With the above said liberty, this civil miscellaneous appeal stands **allowed**. The award passed by the tribunal is hereby set aside and the claim application filed by the claimants namely the respondents 1 to 3 stands dismissed. No cost. Consequently, connected miscellaneous petition is closed.

**25.07.2024**

Index : Yes / No  
Internet : Yes / No  
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To

1. The Special Sub Judge, Special Sub Court dealing with MCOP Cases,  
Motor Accident Claims Tribunal, Tirunelveli.

2. The Section Officer,  
E.R. Section/V.R. Section,  
Madurai Bench of Madras High Court, Madurai.



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C.M.A.(MD).No.319 of 2022

**G.ILANGOVAN,J.**

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C.M.A.(MD).No.319 of 2022

25.07.2024