



C.M.A.No.369 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 17.02.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.369 of 2025
and Cross Objection No.6 of 2025
and C.M.P.No.2746 of 2025

C.M.A.No.369 of 2025:

The Managing Director,
Karnataka State Transport Corporation Ltd.,
Central Offices, K.H.Road,
Shanthinagar, Bengaluru – 560 027.

... Appellant

VS.

1.Latha

2.Palani

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the fair and decreetal order dated 09.02.2024 passed in M.C.O.P.No.398 of 2022 on the file of the Motor Accidents Claims Tribunal (Special District Court for Motor Accident Claims Cases) at Krishnagiri.

For Appellant : Mr.T.Thiyagarajan

For Respondents : Mr.S.P.Yuaraj

Cross Objection No.6 of 2025:



C.M.A.No.369 of 2025

1.Latha
2.Palani

... Cross Objectors

vs.

The Managing Director,
Karnataka State Transport Corporation Ltd.,
Central Offices, K.H.Road,
Shanthinagar, Bengaluru – 560 027.

... Respondent

PRAYER: Cross Objection is filed under Order 41 Rule 22 of the Civil Procedure Code, to enhance the compensation amount and fix the entire liability on the appellant awarded in the Judgment and Decree dated 09.02.2024 made in M.C.O.P.No.398 of 2022 on the file of Motor Accident Claims Tribunal, Special District Court, Krishnagiri by allowing this cross appeal in C.M.A.No.369 of 2025 on the file of this Court.

For Cross Objectors : Mr.S.P.Yuaraj

For Respondent : Mr.T.Thiyagarajan

COMMON JUDGMENT



C.M.A.No.369 of 2025

WEB COPY The Civil Miscellaneous Appeal has been filed by the Karnataka State Transport Corporation Limited challenging the award passed by the Motor Accident Claims Tribunal, Special District Court, Krishnagiri, fixing compensation at Rs.19,35,400/-.

2. According to the respondents/claimants, on 20.01.2021 the son of the claimants namely Ajithkumar proceeded in his two wheeler bearing Registration No.KA-01-EX-9016 on Chengam to Krishnagiri Main Road. According to the claimants, the deceased was driving his two wheeler very slowly and cautiously on extreme left side of the road. The appellant's bus (KSRTC Bus) bearing Registration No.KA-57-F-3744, driven by its driver in a rash and negligent manner came in the opposite direction and hit the two wheeler of the deceased. It was further stated that the bus was proceeding from Bangalore to Thiruvannamalai. As a result of the accident, the victim suffered head injuries and subsequently, died. The claimants preferred a claim petition seeking compensation of Rs.50,00,000/-.

3. The claim petition was resisted by the appellant/Corporation by



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contending that the accident had occurred only due to the fault of the deceased. It was the appellant case that after completion of investigation, a charge sheet was filed against the deceased and therefore, the Tribunal committed a grave error in fixing 85% negligence on the driver of the bus belonging to the appellant-Corporation.

4. On behalf of the claimants, the 1st claimant was examined as PW.1 and an eye-witness-Mohan was examined as PW.2. On the side of the claimants, 18 documents were marked as Exs.P1 to P18. The Driver of the appellant's bus was examined as RW.1 and the Police Officer, who investigated the case was examined as R.W.2. On behalf of the Appellant-Corporation, 3 documents were marked as Exs.R1 to R3.

5. The Tribunal on appreciation of evidence available on record, fixed 85% negligence on the appellant's bus and 15% negligence on the deceased. The Tribunal after deducting applicable amount towards the contributory negligence, passed award fixing the compensation payable to the claimants at Rs.16,45,090/-. Aggrieved by the fixation of 85% negligence on the part of the appellant's bus, the appellant has come by way of this appeal.



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WEB COPY 6. The respondents/claimants not satisfied with the quantum of compensation have filed cross objection in Cross Objection No.6 of 2025.

7. Heard the learned counsel appearing for the appellant-corporation as well as the learned counsel appearing for the respondents-claimants and perused the typed set of papers.

8. The learned counsel appearing for the appellant by taking this Court to the rough sketch marked as Ex.P11 would submit that the deceased crossed the median of the road and came to the right hand side of the road and dashed against the bus. Therefore, according to him, the entire negligence should have been fixed on the part of the deceased. The learned counsel also submitted that the Ex.R1/final report filed by the Chengam Police Station, would establish that negligence was fully on the part of the deceased. Therefore, he made a request to set aside the finding of the Tribunal with regard to fixation of 85% negligence on the part of the appellant's bus.



9. The learned counsel appearing for the respondents/cross objectors

would submit that PW.2-eye-witness clearly deposed about the negligence on the part of the driver of the appellant's-Corporation bus. He submitted that the Tribunal based on the evidence of PW.2 rightly fixed 85% negligence on the part of the driver of the appellant's bus and the same requires no interference. The learned counsel further submitted that the deceased was a Mason and the accident had occurred in the year 2021, however, the Tribunal fixed notional income at Rs.12,000/- per month and the same is very much on lower side.

10. As far as the question of negligence is concerned, PW.2 is the eyewitness, he clearly deposed that accident had occurred only due to the rash and negligent driving of the bus by the appellant's driver. The relevant portion of his evidence extracted by the Tribunal, reads as follows:-

“கர்நாடக அரசு பேருந்து ஓட்டுனர் பேருந்தின் கட்டுப்பாட்டை இழந்து தவறான பாதையில் வந்ததால் விபத்து ஏற்பட்டது. கர்நாடக அரசு பேருந்து ஓட்டுனர் வலது புறத்தில் ஏறி வந்ததால் தான் விபத்து ஏற்பட்டது. கர்நாடக அரசு பேருந்து ஓட்டுனர் அவருக்கு முன்பாக சென்ற வாகனத்தை ஓவர் டேக் செய்தாரா என்றால் அவருக்கு முன்னால் சென்ற பேருந்தை



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“ஓவர்டீக் செய்ததால் தான் வலதுபுறம் ஏறி விட்டார்.”

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11. Though the learned counsel appearing for the appellant relied on the rough sketch prepared by the Police, which was marked as Ex.P11, a perusal of the same would suggest that the direction of the bus as well as the direction of the two wheeler have not been mentioned in the sketch. When sketch is not clear from which direction the bus was proceeding, we cannot come to a conclusion that two wheeler crossed the median and dashed against the bus. Therefore, the submission made by the learned counsel appearing for the appellant in this regard is not acceptable to this Court.

12. As far as the submission made by the learned counsel for the appellant with regard to the final report is concerned, though it was claimed by RW.2 that RCS Notice was issued to the informant, a copy of the said notice has not been produced before the Tribunal. Therefore, final report marked as Ex.R1 cannot be taken into consideration in the absence of evidence to prove RCS Notice was served on the informant.

13. Taking into consideration the entire evidence on record, this Court



feels that the contributory negligence of 85% fixed on the part of the driver of the appellant-corporation appears to be correct and the same requires no interference.

14. Coming to the question of quantum, it was asserted by the claimants that deceased was employed as Mason and he was earning nearly Rs.20,000/- per month. However, the claimants have not produced any documentary evidence to prove the income of the deceased. When no documentary evidence is available on record to prove the income of the deceased, this Court can fix notional income. The accident occurred in the year 2021, having regard to the date of accident, it would be appropriate to fix notional income at Rs.18,000/- per month.

15. The deceased was aged about 21 years at the time of accident. Therefore, he is entitled to 40% enhancement towards future prospects and the applicable multiplier is 18. Therefore, claimants are entitled to Rs.27,21,600/- under the head loss of dependency (Rs.18,000 x 1.4 x 12 x 18 x 1/2). The amount awarded under the head loss of estate, funeral expenses and loss of consortium are confirmed. Therefore, the award passed



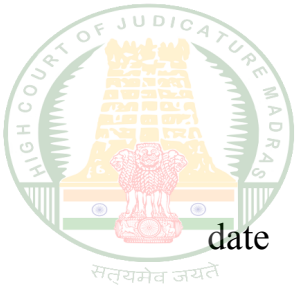
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by the Tribunal is modified as follows:-

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Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Loss of Dependency	Rs.18,14,400/-	Rs.27,21,600/-
2.	Loss of Estate	Rs.16,500/-	Rs.16,500/-
3.	Funeral Expenses	Rs.16,500/-	Rs.16,500/-
4.	Loss of Consortium	Rs.88,000/-	Rs.88,000/-
	Total	Rs.19,35,400/-	Rs.28,42,600/-
	Less 15% Contributory Negligence	Rs.2,90,310/-	Rs.4,26,390/-
	Total	Rs.16,45,090/-	Rs.24,16,210/-

16. In view of the discussion made earlier, the compensation amount of Rs.19,35,400/- awarded by the Tribunal is enhanced to Rs.28,42,600/-. Out of the total award amount payable, 15% has to be deducted towards contributory negligence. Therefore, the amount payable to the claimants is fixed at Rs.24,16,210/- (Rs.28,42,600 – Rs.4,26,390). The Appellant-Corporation is directed to deposit the enhanced award amount of Rs.24,16,210/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of M.C.O.P.No.398 of 2022 on the file of the Motor Accident Claims Tribunal, Special District Court, Krishnagiri, within a period of four weeks from the



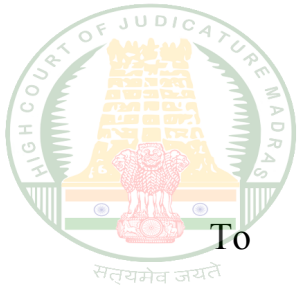
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date of receipt of copy of this judgment. On such deposit, the respondents/claimants are entitled to withdraw the award amount now enhanced by this Court along with interest, cost and less the amount if any already withdrawn, by making formal application before the Tribunal.

17. Accordingly, the Civil Miscellaneous Appeal is dismissed. The Cross Objection No.6 of 2025 is allowed. The Cross Objectors/Claimants are directed to pay applicable additional court fee. No costs. Consequently, the civil miscellaneous petition is closed.

17.02.2025

Index :Yes/No
Speaking order :Yes/No
Neutral Citation :Yes/No
dm



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To

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- 1.The Motor Accidents Claims Tribunal
(Special District Court for Motor Accident Claims Cases),
Krishnagiri.
- 2.The Managing Director,
Karnataka State Transport Corporation Ltd.,
Central Offices, K.H.Road,
Shanthinagar, Bengaluru – 560 027.
- 3.The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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