



C.M.A.No.42 of 2025

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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 21.01.2025**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**C.M.A.No.42 of 2025**

**and**

**C.M.P.No.301 of 2025**

The Managing Director,  
Tamil Nadu State Transport Corporation Ltd.,  
Villupuram.

... Appellant/Respondent

**Vs.**

1.Valarmathi

2.Karthikeyan

3.Rajamanickam

4.Janaki

5.The Administrator,  
Kallakurichi II Co-operative Sugar Mill Limited,  
Kachirapalayam-606 207,  
Kallakurichi Taluk.



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6.The Oriental Insurance Company Limited,  
Branch Office No.20, Gandhi Road,  
Kallakurichi-606 202.

...Respondents

**PRAYER :** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decreetal order dated 30.03.2022 passed in M.C.O.P.No.18 of 2010 by the Motor Accident Claims Tribunal/3<sup>rd</sup> Additional District Court, Villupuram, Kallakurichi.

|                 |   |                                                                                                          |
|-----------------|---|----------------------------------------------------------------------------------------------------------|
| For Appellant   | : | Mr.R.Balaji                                                                                              |
| For Respondents | : | Mrs.V.Srimathi for R1 to R4<br>Mr.D.Gopal<br>Government Advocate for R5<br>Mr.M.J.Vijaya Raghavan for R6 |

## J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the fair and decreetal order dated 30.03.2022 passed in M.C.O.P.No.18 of 2010 by the Motor Accident Claims Tribunal/III Additional District Court, Villupuram @ Kallakurichi.



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2. The Tamil Nadu State Transport Corporation is the appellant herein. On 03.03.2005, as per the direction of the fifth respondent officer, the deceased, Palanivel, who was working as Driver in the fifth respondent concern, drove Mahindra Marshall Jeep bearing Reg.No.TN 32 W 9675 from Kallakurichi II Co-operative Sugar Mill Limited to Thiyagadurugam. When he reached at V.Palayam, the appellant's bus bearing Registration No.TN 32 N 0820 which was driven by its driver, hit against the fifth respondent's vehicle and caused the death of the deceased Palanivel.

3. Claiming compensation for the death of the deceased Palanivel, his wife, son and parents, viz., claimants have filed claim petition before the Motor Accidents Claims Tribunal, III Additional District Court, Villupuram @ Kallakurichi, claiming compensation of Rs.15,00,000/- in M.C.O.P.No.18 of 2010.



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4. The Tribunal, after considering the facts and circumstances of the case and the materials available on record, came to the conclusion that the driver of the bus had driven the vehicle in a rash and negligent manner, thereby causing the death of the deceased Palanivel, but, at the same time, without the contribution of the jeep driver, the accident will not occur and the Tribunal has fixed contribution of 10% on the jeep driver and 90% negligence on the appellant Transport Corporation. Accordingly, the Tribunal passed an award directing the appellant Corporation to deposit a sum of Rs.9,17,662/- in respect of the claimants due to the death of the deceased Palanivel along with 7.5% interest from the date of filing of claim petition till the date of deposit, after deducting 10% contributory negligence of the deceased.

5. Assailing the said award, the appellant Corporation is before this Court on the ground that the accident had occurred due to rash and negligent driving of the jeep driver/deceased and immediately after the



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accident, R.W.1 has made a complaint before the Police and a case was also registered against him in Crime No.55 of 2005 for the offence under Sections 279, 337 and 304(A) IPC. The negligence is on the part of the deceased and therefore, without any iota of material, the Tribunal ought to not have fixed 90% liability on the appellant Corporation and ought to have fixed the entire liability on the Insurance Company or the owner of the vehicle driven by the deceased and no sufficient evidence was produced to substantiate that the driver of the bus alone was negligent and the award passed by the Tribunal is highly disproportionate.

6. The learned counsel appearing for the fifth respondent/ Insurance Company submits that the accident had happened in the year 2005 and the claimants have filed the claim petition in M.C.O.P.No.18 of 2010 before the Tribunal and the Tribunal has partly allowed the claim petition and directed the appellant/Transport Corporation to pay a sum of Rs.10,00,100/- as compensation to the respondents 1 to 4 herein and dismissed the claim petition against the respondents 5 and 6 herein.



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Aggrieved by the same, the appellant/Transport Corporation has filed C.M.A.No.384 of 2020 before this Court and this Court, vide judgment dated 14.02.2020, set aside the award passed by the Tribunal and the matter was remanded back to the Tribunal for fresh consideration. Thereafter, the Tribunal, after analysing the materials placed on record and considering the rival contention of the parties, has passed the impugned award by fixing 10% contributory negligence on the deceased and 90% contributory negligence on the appellant Transport Corporation. Hence, he prays for dismissal of this appeal.

7. Heard the learned counsel appearing for the appellant, the learned counsel appearing for the respondents 1 to 4, the learned Government Advocate appearing for the fifth respondent and the learned counsel appearing for the sixth respondent.

8. It is seen from the records that the accident is of the year 2005 and the claimants have filed the claim petition in the year 2010 before the



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Tribunal and the Tribunal has partly allowed the claim petition directing the appellant/Transport Corporation to pay a sum of Rs.10,00,100/- as compensation to the respondents 1 to 4 herein and dismissed the claim petition against the respondents 5 and 6 herein. Aggrieved by the same, appellant/Transport Corporation has preferred the appeal in C.M.A.No.384 of 2020 before this Court and it was allowed on 14.02.2020, on the ground that the Tribunal has not considered the rival contention of the parties and the FIR ought to have registered against the driver of the bus or driver of the jeep or who is responsible for the accident and it has also not been stated anything about the evidence of P.W.1 to P.W.3 and without any consideration of the above facts, the Tribunal has fixed negligence on the part of the driver of the bus belonging to the appellant Corporation and the matter was remanded back to the Tribunal for fresh consideration. Thereafter, the Tribunal, after analyzing the materials placed on record and considering the rival contention of the parties, has held that the accident had occurred due to rash and negligent driving of the bus, but at the same time, it was held that without contribution of the jeep driver, the accident would

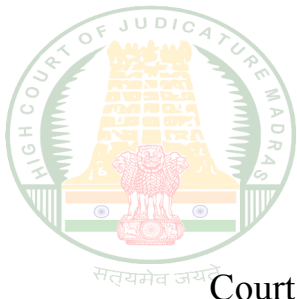


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not have occurred, hence, the percentage of the contribution may differ, and the Tribunal has fixed 10% contributory negligence on the jeep driver and fixed 90% contributory negligence on the driver of the first respondent and it does not warrant any interference of this Court and is perfectly in order.

9. In respect of quantum of compensation, the respondents 1 to 4/claimants have produced Salary Certificate of the deceased which was marked as Ex.P4, from which, it is evident that the deceased got Rs.3,850/- as net salary per month as on February 2006. Hence, the monthly income was taken as Rs.3,850/-. The Tribunal, after deducting 1/4<sup>th</sup> towards personal and living expenses and adding 50% towards future prospects and applying multiplier '15', arrived at the loss of dependency as Rs.7,79,625/-. As per *National Insurance Co. Ltd. Vs. Pranay Sethi & others (2017 (16) SCC 680)*, the compensation was awarded under the heads 'loss of consortium' and 'loss of love and affection' and the compensation awarded under the heads 'funeral expenses' and 'loss of estate' is just and reasonable and does not require any interference of this



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Court. Therefore, the fair and decreetal order dated 30.03.2022 passed in M.C.O.P.No.18 of 2010 by the Motor Accident Claims Tribunal/III Additional District Court, Villupuram @ Kallakurichi, is hereby confirmed.

9. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**21.01.2025**

NCC : Yes / No  
Index : Yes / No  
Speaking Order : Yes / No

ssb

To

1. The Motor Accident Claims Tribunal,  
III Additional District Court, Villupuram, Kallakurichi.
2. The Section Officer,  
V.R. Section,  
High Court, Chennai.



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**M.DHANDAPANI, J.**

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