



WEB COPY

CMA No. 1745 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 25-07-2025**

CORAM

**THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI**

**CMA No. 1745 of 2024**

**AND**

**CMP NO. 13849 OF 2024**

1. V.Gurusamy  
S/o.Veerappa Gounder, Chinnapudur,  
Marudurai Village, Kangayam Tk.

Appellant(s)

Vs

1. SELVI  
W/o.Periyasamy, No.211, Uthaiankadu,  
Therkupalayam, Padiyur, Kangayam  
Tk.

2.Periyasamy  
S/o.Muthuvelappa Gounder, No.211,  
Uthaiankadu, Therkupalayam, Padiyur,  
Kangayam Tk.

3.United India Insurance Company  
Big Bazaar St, Dharapuram.

4.C.Kuppusamy  
S/o.Chinnan, No.10A, Kuttai Medu,  
Olakadam Village, Bhavani Tk, Erode  
Dist.

5.The Managing Director  
Tamilnadu State Transport Corporation  
Ltd, Chennimalai Road, Erode.

Respondent(s)

**PRAYER**

To allow the above CMA and set aside the award dated 23-12-2021 made in



MCOP.No.1108/2015 on the file of the Motor Accident Claims Tribunal, III Additional District Court, Tiruppur at Dharapuram and thus render justice

WEB COPY

**CMA No. 1745 of 2024**

For Appellant(s): Mr.D.Rameshkumar

For Respondent(s): Mr. K. Govi Ganesan For Rr 1  
and 2 Mr. S. Arunkumar For R3  
Mr.M.Murali Vinodh For R5 R4  
- Ndw

**JUDGEMENT**

This Civil Miscellaneous Appeal has been filed to set aside the award dated 23-12-2021 made in MCOP. No.1108/2015 on the file of the Motor Accident Claims Tribunal, III Additional District Court, Tiruppur at Dharapuram

**2. The brief facts of the case:**

On 03.09.2015 at about 10.15 a.m., the deceased Deepak Kumar was travelled as pillion rider of Motorcycle bearing registration No. TN 33 T 7895, which was driven by one Mahshkumar, when he was riding the motorcycle near Sipcot Sub way bridge, Perundurai, at Coimbatore to Salem National Highway main road from East to West direction and turned the motorcycle to left side of the road, at that time the bus bearing registration No. TN 33 N 2984 driven by its driver coming from South to North direction and turn to the right side of the



NH main road, both vehicles were driven by its drivers in a rash and negligent manner without reducing the speed and colluded each other at the turning point.

Due to the accident the pillion rider of motorcycle fallen inside the front right side wheel of the bus and sustained injuries all over the body and died on the spot itself. Thereafter, the claimants filed the petition before the Motor Accident Claims Tribunal, III Additional District Court, Tiruppur at Dharapuram, claiming compensation and respondents 1, 2 & 4 contested the case by filing counter. After considering the oral and documentary evidence, the Tribunal awarded compensation of Rs.14,95,800/-. Challenging the award passed by the Tribunal, the owner of the two wheeler filed this appeal.

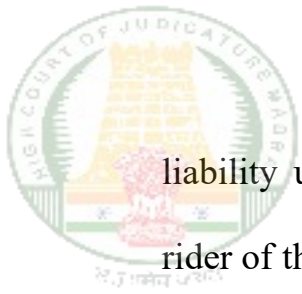
3. The learned counsel for the appellants/claimants submit that at the time of the accident the rider of the two wheeler has driven the vehicle in a normal speed when he turned left side at that time bus belongs to the transport corporation/5<sup>th</sup> respondent driven by its driver in rash and negligent manner, due to which the deceased has fell down inside the right side of the bus wheel and the bus ran over him, thereby he sustained grievous injuries and died on the spot. Hence, the accident was happened solely due to the negligent driving of the bus. But it has not been properly appreciated by the tribunal but erroneously fixed entire liability upon the rider of the two wheeler as such is liable to set aside.

4. The learned counsel for the Transport Corporation argued that at the



time of the accident, the rider of the two wheeler has driven the two wheeler in a rash and negligent manner and on seeing the bus, he had lost his control and colluded each other, due to the said accident the pillion rider had fallen inside the front right side wheel of the bus and sustained fatal injuries, died on the spot. Therefore, the accident was invented by the rider of the two wheeler and the same was rightly appreciated by the tribunal which needs no interference. Prayed to dismiss this appeal no merits.

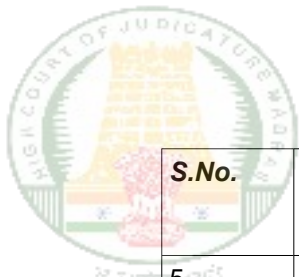
5. Considering the both side submissions, on perusal of the records, FIR was lodged based on the complaint given by the bus driver who narrated manner of the accident stating that when he was driving the said bus in the above N.H Road near the SIPCOT, Perundurai Sub way bridge, the rider of the two wheeler rode the two wheeler in a rash and negligent manner, due to which pillion rider fell down on the right side of the bus wheel and bus ran over on him due to which pillion rider died on the spot. Even as per FIR allegations, if the driver of bus has driven the bus slowly, he should have avoided the accident. Furthermore, as per the evidence and rough sketch/Ex.B5 the accident spot is 15 feet away from the said subway bridge. Therefore, it is clear that two wheeler has almost crossed subway bridge, if the driver of the bus driven the bus in normal speed he should have avoided the accident. Therefore, it reveals that there is negligence on the part of the driver of the bus but the tribunal has erroneously fixed liability upon the rider of the two wheeler as such is erroneous and liable to be set aside. Therefore, this Court is inclined to fix 70%



liability upon the driver of the Transport corporation bus and 30% upon the rider of the two wheeler. Admittedly, two wheeler is insured with Insurance company/third respondent herein. Therefore, 3<sup>rd</sup> respondent is liable to pay 30% of the compensation and recover the same from the owner of the two wheeler/appellant herein. Remaining 70% compensation is ordered to be deposited by the 5<sup>th</sup> respondent/Transport Corporation before the Tribunal.

6. Furthermore, as rightly pointed by the appellants' counsel, the accident is of the year 2015 but tribunal has fixed only Rs. 9,000/- as notional income. Admittedly, the deceased was studying 2<sup>nd</sup> year mathematics degree, who is only son for the parents. Considering the cost of living at the time of the accident and the deceased educational qualification, this Court is inclined to fix Rs.15,000/- as notional income of the deceased. Accordingly, the claimants are entitled to Rs. 22,68,000/-(15000+6000x12x18-1/2) under the head of loss of dependency. Further, the amount awarded under the head of transportation expenses is unwarranted. Accordingly, the amount awarded by the tribunal in the said head alone be deleted. Except above modification, award passed by the tribunal in other heads remains unchanged.

| <b>S.No.</b> | <b>Heads</b>       | <b>Compensation awarded by the tribunal.</b> | <b>Compensation awarded by this Court</b> |
|--------------|--------------------|----------------------------------------------|-------------------------------------------|
| 1.           | Loss of dependency | Rs.13,60,800/-                               | Rs. 22,68,000/-                           |
| 2.           | Loss of estate     | Rs.30,000/-                                  | Rs.30,000/-                               |
| 3.           | Loss of consortium | Rs.80,000/-                                  | Rs.80,000/-                               |
| 4.           | Funeral expenses   | Rs.15,000/-                                  | Rs.15,000/-                               |



| S.No. | Heads                  | Compensation awarded by the tribunal. | Compensation awarded by this Court |
|-------|------------------------|---------------------------------------|------------------------------------|
| 5.    | Transportation charges | Rs.10,000/-                           | Nil                                |
|       | Total                  | Rs. 14,95,800/-                       | Rs. 23,93,000/-                    |

7. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to **Rs. 23,93,000/-**. The 3<sup>rd</sup> respondent is directed to deposit 30% of the award amount with 7.5% interest and recover the same from the appellant herein and 5<sup>th</sup> respondent is directed to deposit 70% of the award amount 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 MCOP. No.1108/2015 on the file of the Motor Accident Claims Tribunal, III Additional District Court, Tiruppur at Dharapuram, within a period eight weeks from the date of receipt of a copy of this judgement. Both claimants are entitled to each 50% of the compensation. On such deposit, the 1<sup>st</sup> and 2<sup>nd</sup> respondents/claimants are permitted to withdraw the award amount by making formal application before the Tribunal. In so far as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimant(s).

8. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

**25-07-2025**

pbl  
Index: Yes/No  
Speaking/Non-speaking order  
Internet: Yes  
Neutral Citation: Yes/No



CMA No. 1745 of 2024



To

1. The Motor Accident Claims Tribunal, III Additional District Court, Tiruppur at Dharapuram.
2. The Section officer, V. R Section, High Court, Madras.



WEB COPY

CMA No. 1745 of 2024



**T.V.THAMILSELVI J.**  
pbl

**CMA No. 1745 of 2024  
AND CMP NO. 13849  
OF 2024**

**25-07-2025**