



WEB COPY

CMA No. 1334 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-11-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1334 of 2025

1. Sellammal
W/o.Late Raju, No.588, Prem Nagar,
VOC Nagar, Alampalayam,
Tiruchengode Taluk, Namakkal District
Now res at Kaveri R.S., Karattan
Kaadu, Pallilpalayam

Appellant(s)

Vs

1. T.Venkatesan
S/o.Thambirajan, NO.5/6, Devi Garden
Kanagayan Nagar, 2nd Street,
Kangeyam Road, Tiruppur-641604

2.United India Insurance Co. Ltd.
Rep. by its Manager, 1170, Muthaiah
Complex, Mettur Main Road, Erode

3.United India Insurance Co. Ltd.
Rep. by its Manager, SRS Towers,
Mettur Main Road, Bhavani

Respondent(s)

PRAYER

To set aside the fair order dt. 28.02.2024 made in MCOP No.449/2015 on the file of the Motor Vehicle Accident Claims Tribunal, Subordinate Court, Bhavani, Erode District

For Appellant(s): Mr.S.P.Yuaraj



For Respondent(s): M/s. R. Rajesh
For Rr2 And 3
R1 - Notice Dispensed With
(vide Court Order Dated
24/04/2025)

ORDER

Today, the matter is listed under the caption "for being mentioned" at the instance of the learned counsel for the appellant.

2. It is brought to the notice of this Court that some error has been crept in paragraph No.7 of the order dated 01.07.2025. The said paragraph Nos. 7 is to be replaced as follows:

“ In view of the discussions made earlier, the compensation fixed as Rs.2,04,000/-, out of which 80%, i.e.,Rs.1,63,200/- (Rupees one lakh sixty three thousand and two hundred only) is to be paid by the 2nd respondent. The 2nd respondent / Insurance company is directed to deposit the said 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.449 of 2015 on the file of the Motor Vehicle Accident Claims Tribunal, Subordinate Court, Bhavani, Erode District, within a period of eight weeks from the date



of receipt of a copy of this judgement. On such deposit, the appellant / claimant is permitted to withdraw the award amount by making formal application before the Tribunal. The 2nd respondent may deduct the amount, if any amount has already deposited before the Tribunal.”

3. Registry is directed to incorporate the above paragraph No.7 in the order dated 01.07.2025, and issue fresh order copy to the parties forthwith.

4. In all other respects, the order dated 01.07.2025, in the above Civil Miscellaneous Appeal shall remain unaltered.

18-11-2025

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



To

- 1.T.Venkatesan
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Kangeyam Road, Tiruppur-641604
- 2.United India Insurance Co. Ltd.
Rep. by its Manager, 1170, Muthaiah
Complex, Mettur Main Road, Erode
- 3.United India Insurance Co. Ltd.
Rep. by its Manager, SRS Towers,
Mettur Main Road, Bhavani.
4. The Motor Vehicle Accident Claims
Tribunal, Subordinate Court, Bhavani,
Erode District



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1. SELLAMMAL

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Respondent(s)

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PRAYER

To set aside the fair order dt. 28.02.2024 made in MCOP No.449/2015 on the file of the Motor Vehicle Accident Claims Tribunal, Subordinate Court, Bhavani, Erode District

CMA No. 1334 of 2025

For Appellant(s): S.P.Yuaraj



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CMA No. 1334 of 2025



For Respondent(s): M/s. R. Rajesh For Rr2 and 3
R1 - Notice Dispensed With

JUDGEMENT

This Civil Miscellaneous appeal has been filed to set aside the fair order dt. 28.02.2024 made in MCOP No.449/2015 on the file of the Motor Vehicle Accident Claims Tribunal, Subordinate Court, Bhavani, Erode District(in short 'tribunal').

2. On 03.02.2015, at about 02.30 hours when the claimant and his brother trying to entered into the TTS bus registration No. TN 39 BL 5115, the bus driver without noticing the claimants started the bus with negligent manner, due to which the claimant fell down and the bus back wheel ran over the leg of the claimant. Due to which, the claimant sustained greivous injuries. Thereafter, the claimant filed the petition before the tribunal claiming compensation. The respondent insurance company contested the case by filing counter. After considering the oral and documentary evidence, the tribunal dismissed the petitoion.

3. The learned counsel for the claimant submits that the without noticing the claimant get into the bus the driver of the bus has suddenly taken the bus due to which the claimant sustained greivous injuries, which was caused due to negligence of the driver and conductor of the bus. But the tribunal erroneously dismissed the petition by relying final report submitted by the police, wherein it

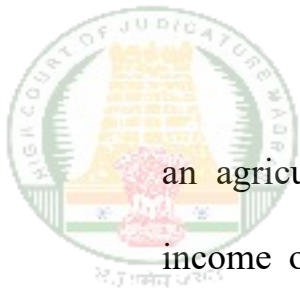


is stated that she sustained injuries due to her own negligence. Hence, as tortfeasor the claimant is not entitled to claim the compensation which is illegal.

Hence, the prays to set aside the judgement passed by the tribunal.

4. The learned counsel for the respondent submits that as per the final report the accident was happened duly due to the negligence act of the claimant, which was rightly appreciated by the tribunal needs no interference.

5. Considering the submissions on either side, admittedly as per the FIR, when the deceased get into the bus, without noticing her, the conductor has given signal to the driver, in turn, he started the bus due to which the accident was happened. As per the final report, investigation reveals that she was attempted to claim the running bus due to which the accident was happened. On perusal of the entire records, it reveals that the accident was happened due to sudden moving of the bus and she fell down from the moving bus. There is a negligence on the part of the driver and conductor and also the claimant. Therefore, the tribunal ought to have fixed contributory negligence on the side of the claimant instead it dismissed the entire claim petition. Hence, the findings rendered by the tribunal is set aside. As discussed above, this Court is inclined to fix 20% negligence on the part of the claimant and 80% negligence on the side of the respondents. Accordingly, the claimant is entitled to compensation. The claimant sustained 30% disability and the accident was happened in the year 2015. Therefore, this Court is inclined to fix Rs.4,000/- per percentage. Accordingly, the claimant is entitled to **Rs.1,20,000/-**. Further, the claimant is



an agriculturist. Hence, this Court is inclined to fix **Rs.8,000/-** as notional income of the claimant. Accordingly, the claimant is entitled to **Rs.24,000/-** under loss of income for three months. Further, the claimant produced medical bills for Rs.20,000/-. Accordingly, the claimant is entitled to **Rs.20,000/-** for medical bills. Further, the claimant has sustained grievous injuries. Hence, this Court fix **Rs.25,000/-** for pain and sufferings. Further, this Court fix **Rs.5,000/-** for transportation charges and **Rs.10,000/-** for loss of amenities.

6. In the light of the above discussions, this Court is inclined to fix the compensation as follows.

S.No	Head	Compensation awarded by this Cour.
1.	For disability	Rs.1,20,000/-
2.	Loss of income	Rs.24,000/-
3.	Medical Bills	Rs.20,000/-
4.	Pain and sufferings	Rs.25,000/-
5.	Transportation	Rs.5,000/-
6.	Loss of amenities	Rs.10,000/-
	Total	Rs..2,04,000/-

7. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to **Rs.2,04,000/-**. The respondent Insurance Company is directed to deposit the said 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.449/2015 on the file of the Motor Vehicle Accident Claims Tribunal, Subordinate Court, Bhavani, Erode District, within a period eight weeks from the date of receipt of a copy of this



judgement. On such deposit, the appellant/claimant is permitted to withdraw the award amount by making formal application before the Tribunal. The respondent may deduct the amount, if any amount has already deposited before the tribunal.

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

01-07-2025

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