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CMA No. 1723 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1723 of 2025 & CROS.OBJ NO. 57 OF 2025

AND

CMP NO. 15123 OF 2025

The Managing Director
Tamil Nadu State Transport
Corporation Ltd., Salem No.12,
Ramakrishna Road, Salem-7

Appellant

Vs

1. Umarani

2.Venkatesan S/o Late Srinivasan

Respondents

CROS.OBJ No. 57 of 2025

1. Umarani

2.Venkatesan

Appellants

Vs



The Managing Director
Tamil Nadu State Transport
Corporation Ltd., Salem No.12,
Ramakrishna Road, Salem-7

Respondent

CMA No. 1723 of 2025

PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicle Act, praying to set aside the judgement and decree passed in MCOP.No.1416/2022 passed by the Motor Accidents Claims Tribunal, Special District Court, Salem on 01-02-2024.

For Appellant: Mr.D.Nitin

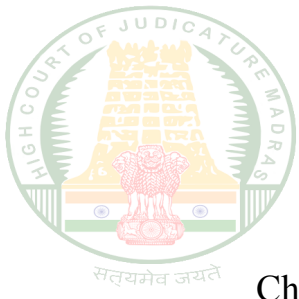
For Respondents: Mr. K. Vasantha Nayagam For R1 and 2

CROS.OBJ No. 57 of 2025

PRAYER: Cross Objections filed under Order 41 Rule 22 of C.P.C., praying to enhance the compensation amount awarded in the award dated 01.02.2024 made in MCOP No. 1416 of 2022 on the file of the Special District Judge MCOP Tribunal, Salem, Salem by allowing this Cross Objection in CMA No. 1723 of 2025.

For Appellants: Mr.K.Vasantha Nayagam

For Respondent: Mr. D.Nitin



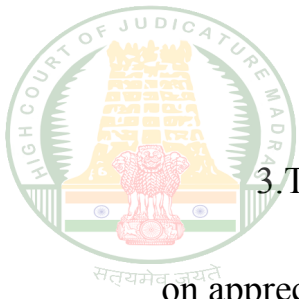
JUDGMENT

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Challenging the impugned award passed by the Motor Accident Claims Tribunal, Special District Court, Salem in MCOP No.1416 of 2022, dated 01.02.2024, the appellant/2nd respondent insurance company preferred this Civil Miscellaneous Appeal.

2. The 1st and 2nd respondents are wife and son of deceased Srinivasan.

The case of the respondents is that on 12.01.2020 at about 03.50 p.m. while the deceased travelling as a conductor in the Government bus bearing Regn. No. TN-30 N-1335 in Mecheri to Mettur road, near Deepam Mandapam Mecheri, the driver of the bus suddenly applied the break in a rash and negligent manner, due to which, the said Srinivasan, who was giving the ticket to the passengers got collapsed and fell down through the rear foot-board and sustained grievous injuries all over the body, for which he underwent treatment in the hospital and subsequently he died inspite of treatment. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.50,00,000/-.

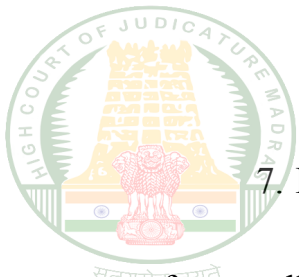


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3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the appellant transport corporation. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.28,55,472/- under various heads and the said compensation was directed to be paid with interest at the rate of 7.5% per annum.

5. The Insurance Company aggrieved by the quantum of compensation fixed by the Tribunal has filed the present appeal before this Court.

6. The learned counsel for appellant argues that at the time of accident, the deceased was the conductor of bus, who has carelessly standing near the foot-board of the bus and issuing tickets, due to which suddenly he fell down and sustained injuries. So, there is a negligence on the part of conductor and the same is to be taken into consideration, but the tribunal fixed the entire liability upon the appellant transport corporation without considering the contributory negligence on the part of deceased. Therefore, he prayed to set aside the findings of the Tribunal.



7. Heard and considered rival submissions made by both learned counsel for appellant as well as respondents and perused materials available on record.

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8. Admittedly, on perusal of records, it reveals that on the date of accident, he was a conductor of bus, but there is no evidence on the side of transport corporation that there was negligence on the part of deceased conductor, who was standing near the door. Moreover, the driver alone was examined and no passenger was examined to prove the negligence. Therefore, the plea of contributory negligence raised on the side of conductor was not proved by the appellant. Hence, the Civil Miscellaneous Appeal filed by the appellant insurance company is liable to be dismissed. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

9. In so far as Cross Objections filed by the respondents is concerned, The learned counsel appearing for Cross-objectors/petitioners argues that while arriving the take home salary, the E.P.F. amount was not included by the tribunal, to that effect, they have produced the salary certificate for February



2020. On perusal of salary certificate, the take home salary of deceased is

Rs.38,201/-, however, in respect of other allowances, particularly, with respect

to E.P.F., he has paid a sum of Rs.5377/-, but it was not added by the tribunal.

Furthermore, in respect of other allowances, he has paid some amount to L.I.C.,

which need not be considered. Therefore, this Court is inclined to add the said

sum of Rs.5377/- along with notional monthly income of deceased.

Furthermore, the Tribunal has granted only a sum of Rs.40,000/- under the head

of 'Loss of consortium'. This is on the lower side and hence, wife of deceased is

entitled for a sum of Rs.44,000/- under this head. Accordingly, the

compensation awarded under this head is increased from Rs.40,000/- to

Rs.44,000/-. The compensation that has been fixed under the other heads are

unaltered.

10. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:



S.No	Compensation awarded under the head	Amount awarded by the tribunal (in Rs.)	Amount (in Rs.)	Award confirmed or granted or enhanced
1.	For loss of income Rs.43578 x 12 x 9 (multiplier) = 47,06,424 – 1/3 = 31,37,616	27,50,472	31,37,616	enhanced
2.	Loss of love and affection (Rs.20000 x 2)	40,000	40,000	confirmed
3.	Loss of consortium	40,000	44,000	enhanced
5.	Funeral expenses	25,000	25,000	confirmed
	Total Rounded off	28,55,472	32,46,616 32,46,620	enhanced

11. Accordingly, the compensation awarded by the tribunal at Rs.28,55,472/- is enhanced to Rs.32,46,620/-. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. The appellant respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of copy of this judgment. On such deposit of the enhanced



compensation amount now determined by this Court, the respondents 1 and 2

are entitled to share the amount proportionately as ordered by the Tribunal and

the respondents 1 and 2 are permitted to withdraw the enhanced award amount

along with interest and costs, less the amount if any, already withdrawn. In the

result, the Cross Objections filed by the respondents/petitioners 1 and 2 is partly

allowed. No costs.

09-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accidents Claims Tribunal, Special District Court, Salem.

2. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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