



CMA.No.479 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :04.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.479 of 2025

1.Mrs.Valli

2.Arvindraj

3.Anushiya

... Appellants

Vs.

The Managing Director
Tamil Nadu State Transport Corporation Limited,
(Villupuram Division - III),
Kancheepuram.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to enhance the award passed in MCOP No.46 of 2022 dated 21.03.2023 on the file of the Motor Accidents Claims Tribunal No.1, Special District Court, Thiruvallur.

For Appellant : Mr.R.Navaneetha Krishnan

For Respondents: Mr.C.R.Suresh Kumar

JUDGMENT

The Civil Miscellaneous Appeal has been filed by the claimants challenging the award passed by the tribunal fixing 20% contributory negligence on the part of the deceased.



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2. It was the case of the appellants/ claimants that the husband of the 1st claimant and the father of the claimants 2 and 3 namely Arumugam, died in a road accident that had occurred on 07.03.2022. According to the claimants, the deceased was walking on the extreme left-hand side of the road proceeding from Poonamallee to Tiruvallur. The driver of the Respondent Corporation bus had driven the vehicle in a rash and negligent manner and hit against the deceased pedestrian. As a result of the impact of the accident, the deceased suffered multiple injuries and died on the spot. Hence, the claim petition was filed seeking compensation of Rs.50,00,000/-.

3. The respondent filed a counter and resisted the claim petition on the ground that the accident had occurred due to the negligence on the part of the deceased. According to the respondent, the deceased, who came from a TASMACH shop, attempted to cross the road from left to right, stood over the center median and fell down on the road.

4. Before the Tribunal, the first claimant was examined as PW1 and two eyewitnesses were examined as PW2 and PW3. The Deputy Block



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WEB COPY Development Officer from the office of the deceased was examined as PW4. On behalf of the claimants, 20 documents were marked as Ex. P1 to Ex. P20. The driver of the respondent bus was examined as RW1. Two documents were marked on the side of the respondent as Ex.R1 and Ex.R2.

5. The Tribunal, on appreciation of evidence available on record, came to the conclusion that the driver of the respondent corporation bus was primarily responsible for the accident and fixed 80% negligence on his part. The Tribunal fixed 20% contributory negligence on the part of the deceased and ultimately, awarded a sum of Rs.27,29,962/- after deducting 20% towards contributory negligence. Aggrieved by the fixation of contributory negligence on the part of the deceased, the claimants have come before this court.

6. The learned counsel for the Appellants submitted that both PW-2 and PW-3, eye witnesses clearly deposed that the negligence was on the part of the driver of the respondent bus and the same has been overlooked by the Tribunal while fixing contributory negligence.



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7. The learned counsel for the Respondent Corporation submitted that PW-3 in his evidence clearly admitted that the bus did not come in a high speed and hence, there was no negligence on the part of the driver of the respondent corporation bus. The learned counsel also submitted that the rough sketch uploaded in CCTNS portal would indicate that the accident had occurred near center median but not as contended by the claimants in the claim petition.

8. A perusal of the award passed by the tribunal would indicate that the tribunal relied on the rough sketch uploaded in CCTNS portal (Crime and Criminal Tracking Network and Systems), a portal maintained by Tamil Nadu Police and came to the conclusion that the accident had occurred near center median. However, the rough sketch was not marked on either side before the tribunal. The tribunal ought not have relied on rough sketch uploaded in the portal when it is not part of the records before the tribunal. A further perusal of the evidence of eyewitnesses, PW-2 and PW-3, would indicate that they have clearly deposed that the accident had occurred only due to the negligence on the part of the driver



WEB COPY of the respondent corporation. The tribunal, in its award, recorded as if

PW-3 admitted that the bus did not come on high speed. However, there is no such admission by PW-3. In his evidence, he says as follows.

“பேருந்தின் ஓட்டுநர் சாலையின் இடது பக்கமாக
சென்று கொண்டிருந்த 5 அடி உயரமுள்ள ஆறுமுகத்தை
கவனிக்காமல் வாகனத்தை ஓட்டிய காரணத்தினால் இந்த
விபத்து ஏற்பட்டது”.

9. When it was suggested to him that the deceased attempted to cross the road and invited the accident, the same was denied by him. In the light of the evidence of PW-2 and PW-3, which are complementary to each other, this Court has no hesitation in coming to the conclusion that the accident had occurred solely due to the negligence on the part of the driver of the respondent corporation. Therefore, the finding of the Tribunal in fixing 20% contributory negligence on the part of the deceased is set aside. Accordingly, 20% deduction made by the Tribunal towards contributory negligence is also liable to be set aside. Hence, the claimants are entitled to Rs. 34,12,452/- as arrived at by the Tribunal. The split-up details of the compensation amount arrived at by the Tribunal is modified as follows:-



Sl No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	32,47,452/-	32,47,452/-	Confirmed
2.	Loss of Estate	16,500/-	16,500/-	Confirmed
3.	Funeral Expenses	16,500/-	16,500/-	Confirmed
4.	Loss of Consortium	1,32,000/- (44,000 x 3)	1,32,000/-	Confirmed
	Total	34,12,452/-	34,12,452/-	Confirmed
	Less:20%contributory negligence	6,82,490/-	-	Set aside
	Net compensation	27,29,962/-	34,12,452/-	Enhanced by Rs.6,82,490/-

10. In view of the discussions made earlier, the Civil Miscellaneous Appeal is allowed by setting aside the fixation of 20% contributory negligence on the part of the deceased. The appellants/claimants are entitled to interest at the rate of 7.5% per annum (excluding the delay period of 375 days as per order in CMP.No.20522 of 2024) from the date of filing of the claim petition till the date of realization. The Respondent Corporation is directed to deposit the enhanced award amount before the Tribunal along with interest and costs, less the amount already deposited,



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WEB COPY if any, within a period of six weeks from the date of receipt of copy of this Judgment. The claimants are permitted to withdraw the same along with interests and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal. The appellants are directed to pay applicable additional court fee on the enhanced award amount. No costs.

04.04.2025

Index:Yes/No
Internet:Yes/No
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To

1. Motor Accidents Claims Tribunal No.I
Special District Court, Thiruvallur.
2. The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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