



WEB COPY

CMA No. 3211 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-08-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 3211 of 2024

1. VEDIYAMMAL
W/o. Venkatachalam, No.2/194,
Methahalli Village, Papparapatti Post,
Pennagaram Taluk, Dharmapuri
District.

Appellant(s)

Vs

1. The Managing Director
Tamil Nadu State Transport Corp.Ltd.
Bharathipuram, Dharmapuri

Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, prays to set aside the order dated 24.11.2020 made in MCOP No. 314 of 2017 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge, Dharmapuri and award the compensation and thus render justice.

For Appellant(s): Mr.S.Ramprabu
For Mr.T.Ananthasekar

For Respondent(s): Mr. D.Nithin

JUDGEMENT

The appellant has filed this appeal against the award passed in MCOP No. 314 of 2017 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge, Dharmapuri.



2. When the matter was taken up for hearing, the learned counsel for the appellant submitted that both the husband and wife sustained injuries in the accident. The husband filed a claim petition in MCOP No.124 of 2017 before the Motor Accident Claims Tribunal, Special District Judge, Dharmapuri, which was allowed, and pursuant thereto, the respondent Transport Corporation deposited the awarded amount. Contrary to the said finding, in respect of the very same accident, the wife filed a separate claim petition, which was dismissed by the Tribunal holding that there was no negligence on the part of the Transport Corporation. According to the learned counsel for the appellant, the said finding is erroneous and liable to be set aside.

3. The learned counsel for the respondent/Transport Corporation submitted that the claim petition filed by the husband was decreed ex parte, and based on the same, the compensation amount was deposited. However, in the present case, the claim was contested by the Transport Corporation, and the Tribunal, after considering the evidence on record, rightly held that there was no negligence on the part of the driver of the bus and dismissed the claim petition.

4. On a perusal of the records, it is seen that before the Tribunal, the respondent/Transport Corporation cross-examined the witnesses but did not examine the driver of the bus. On the date of the accident, the claimant was a



pillion rider on a two-wheeler (TVS 50) driven by her husband. According to the claimant, the bus hit the two-wheeler, as a result of which both of them fell down and sustained injuries. However, a complaint was lodged by the driver of the bus, based on which an FIR was registered.

5. The facts reveal that both the husband and wife sustained grievous injuries and were not in a position to lodge a complaint immediately after the accident. Taking advantage of the said situation, the driver of the bus lodged the complaint, attributing negligence to the rider of the two-wheeler. To prove negligence, mere production of documentary evidence is not sufficient. The Transport Corporation ought to have examined the driver of the bus, who was the complainant in the FIR, but he was not examined.

6. In the said accident, the claimant/appellant sustained grievous injuries to her left leg and left thigh and took treatment for six days, from 14.07.2016 to 19.07.2016. The Medical Board assessed 15% partial permanent disability. Therefore, mere filing of an FIR against the rider of the two-wheeler is not sufficient to establish negligence on his part. The Transport Corporation has failed to prove negligence on the part of the rider of the two-wheeler.

7. The evidence on record reveals that the rider of the two-wheeler



attempted to overtake the bus and came into contact with the front portion of the bus, as a result of which both the rider and the pillion rider fell down and sustained injuries. Considering the facts and circumstances, 10% contributory negligence is fixed on the husband (rider of the two-wheeler) and 90% negligence is fixed on the driver of the heavy vehicle/bus.

8. Accordingly, compensation is awarded as follows: The claimant was aged 40 years at the time of the accident. Considering the 15% partial permanent disability and the accident having occurred in the year 2016, the compensation per percentage of disability is fixed at Rs.6,000/-. Accordingly, a sum of Rs.90,000/- (Rs.6,000 x 15%) is awarded towards partial permanent disability.

9. The appellant was working as a coolie and was earning Rs.15,000/- per month. However, the appellant has not produced any documentary evidence to prove her income. Considering the nature of employment and the absence of documentary proof, this Court is of the opinion that fixing the notional monthly income of the injured at Rs.10,000/- would meet the ends of justice. Due to the accident, the appellant would have been unable to attend to her regular work for a period of three months. Therefore, a sum of Rs.30,000/- (Rs.10,000 × 3 months) is awarded towards loss of income during the period of treatment and



recovery. Further, this Court is inclined to award a sum of Rs.28,000/- towards medical expenses, Rs.30,000/- towards pain and sufferings, Rs.2,100/- towards attender charges, Rs.15,000/- towards loss of nutrition, and Rs.2,000/- towards damage to clothes.

10. The following tabular column sets out the amounts awarded by this Court under various heads:

Sl. No	Heads	Amount (in Rs.) awarded by the High Court
1.	Disability 15%	90,000
2.	Medical Bills	28,000
3.	Pain and sufferings	30,000
4.	Attender charges	2,100
5.	Nutrition	15,000
6.	Damage to clothes	2,000
7.	Loss of income	30,000
	Total	1,97,100
	Less 10% contributory negligence	19,710
	Total	1,77,390

9. In the result:

i. The Civil Miscellaneous Appeal is allowed. There shall be no order as to costs.



ii. The appellant/claimant is directed to pay the Court fee for the compensation amount, if any. The Registry is directed to draft the decree only after the receipt of the Court fee.

iii. The respondent / Transport Corporation, Dharmapuri, is directed to deposit the amount awarded by this Court i.e., Rs.1,77,390/- (Rupees One lakh Seventy Seven thousand Three Hundred and Ninety only), together with interest at the rate of 7.5% per annum, from the date of claim petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order.

iv. On such deposit being made by the respondent, the appellant/claimant is at liberty to withdraw the same, after following due process of law.

vi. The appellant/claimant shall not be entitled to claim interest for the period of delay, if any, in filing this appeal.

28-08-2025

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

1. The Managing Director
Tamil Nadu State Transport Corp.Ltd.
Bharathipuram, Dharmapuri.

2. The Motor Accidents Claims
Tribunal, Special Subordinate Judge,
Dharmapuri.

3. The Section Officer,
VR Section, High Court of Madras.



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T.V.THAMILSELVI J.
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