



C.M.A.No.139 of 2025

CMA.No.139 of 2025

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M.DHANDAPANI, J.

Today, this matter is listed under the caption “For Being Mentioned” at the instance of the Registry.

2. It is brought to the notice of this Court by the Registry that, this Court, vide order dated 24.01.2025 dismissed this Civil Miscellaneous appeal. However, in the above said order dated 24.01.2025, inadvertently a typographical error has crept in, wherein the date of the impugned award has been wrongly mentioned as 04.04.2018 instead of 20.12.2023, which requires to be modified.

3. This Court perused the order dated 24.01.2025, and this Court is satisfied that the award date is wrongly typed as '04.04.2018' instead of '20.12.2023' which has to necessarily be modified. In addition to that, this Court finds that there is a typographical error in the cause title in respect of the names of the 3rd and 4th respondents, wherein it has been mentioned as '*Kirithika*' instead of '*Kirthika*' and '*Sarooja*' instead of '*Saroja*', which also has to be corrected.



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4. In view of the above, Registry is directed to make necessary corrections in the above said order dated 24.01.2025 in respect of the date of the impugned award as well as the name of the 3rd and 4th respondents and issue fresh copy of the order to the learned counsel for the parties.

5. All the other observations made in the earlier order dated 24.01.2025 shall remain intact.

13.03.2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.01.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CMA.No.139 of 2025
and CMP No.1229 of 2025

The Managing Director,
Tamilnadu State Transport Corporation (Salem) Limited,
No.12, Ramakrishna Road,
Salem-636 007.

... Appellant

Vs.

1. Jayasri
2. Minor Bharath
3. Minor Kirithika
Minors 2 & 3 Represented by next friend
Mother 1st respondent

4. Sarooja
5. Palanisami
6. Velmurugan

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 04.04.2018 made in MCOP No.278 of 2015 on the file of Motor Accident Claims Tribunal, Subordinate court, Sankari.

For appellant : Mr. Nitin D

For Respondents : Mr.C.Kulanthaivel RR1 to 5



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JUDGMENT

The Transport Corporation have filed the appeal against the judgment and decree dated 04.04.2018 made in MCOP No.278 of 2015 on the file of Motor Accident Claims Tribunal, Subordinate court, Sankari questioning the negligence attributed against the driver of the bus and quantum of compensation.

2. The case of the claimants is that on 28.06.2015 at about 08.30 PM when the deceased Murugesan was riding in his two wheeler bearing No.TN 45 AH 3483 near Bye pass Bridge of the Salem – Sankari Main Road, at that time, a TNSTC bus bearing Reg. No.TH 30 N 0473 came from opposite direction driven by its driver in a rash and negligent manner and dashed on the deceased Murugesan bike and caused the accident. Due to this accident, he sustained injuries and died in the hospital. It is under these circumstances, the claim petition came to be filed by the dependents who are the wife, children and father before the Tribunal seeking for payment of compensation for the death of Murugesan.



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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 driver of the bus belonging to the Transport Corporation.

4. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.20,33,000/- under various heads as follows :-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income	18,90,000
2.	Loss of Love and affection	82,500
3.	Funeral exp.	16,500
4.	Loss of consortium	44,000
5.	Total	20,33,000/-

5. The above compensation was directed to be paid by the Insurance company with interest at the rate of 7.5% per annum.

6. The Transport Corporation has filed the above appeal



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questioning the negligence and quantum of compensation passed by the Tribunal.

7. The learned counsel for the appellant submitted that the deceased, without any indication, suddenly crossed the road and hit against the bus. The appellant bus is not responsible for the accident. PW1 is the wife of the deceased and she has deposed the evidence regarding the manner of the accident who is no way present at the place of the accident. Further, no other independent witness was examined to prove the manner of the accident and blindly fastened the negligence on the appellant herein. The Tribunal failed to consider the evidence of RW1 driver of the bus who is an competent person to speak about the accident. Ignoring theses facts, the Tribunal, has fastened the negligence as against the driver of the bus, which is not sustainable.

8. The learned counsel further submitted that the Tribunal has fixed the notional income at Rs.10,000/- without any proof, which is highly exorbitant and this Court may interfere with the same.



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9. The learned counsel for the claimants submitted that due to rash and negligent driving of the driver of the bus, the accident had happened. After considering the entire fact, the Tribunal has rightly fastened entire negligence on the appellant and awarded compensation for the death of the deceased Murugesan, which is perfectly in order and the same does not warrant any interference.

10. Heard the learned counsel for Transport Corporation and the learned counsel for claimants.

11. This Court carefully considered the submissions made on either side and the materials available on record.

12. This Court also carefully went through the award passed by the Tribunal.

13. The first ground to be gone is with regard to the question of negligence raised by the Transport Corporation. As rightly submitted by the learned counsel for the claimants that in the present case, to prove the



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case of the claimants, FIR has been registered against the driver of the bus. The Tribunal while considering the above evidence, concluded that the Transport Corporation ought to have examined some independent witness in this case and whereas, they examined only the driver of the bus and not examined any independent witness. Hence, the Tribunal came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the bus belonging to the Transport Corporation.

14. It is true that there was no clinching evidence beyond reasonable doubt to establish that the accident had taken place in the manner in which the driver of the bus had projected it. The driver will always give the version which is advantageous to him. The claimants on the other hand will give a version which is advantageous to them. That is the reason why, the Tribunal was insisting for an independent witness. In view of the same, the decision that was arrived at by the Tribunal cannot be held to be perverse. Consequently, the finding of the Tribunal by fixing the negligence against the driver of the bus is hereby confirmed.



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15. Insofar as the compensation is concerned, this Court finds that the quantum fixed by the Tribunal under various heads is reasonable.

16. One disturbing factor in this case is that the accident had taken place in the year 2015 and the deceased was aged at 39 years and he was running a mechanic shed and also working as a lorry driver at that time of the accident. However, the claimants have not produced any records to prove the income of the deceased, for which, the Tribunal has fixed a sum of Rs.10,000/- as notional income, which is perfectly in order. Hence, the appeal filed by the appellant is not sustainable.

17. In the result, the civil miscellaneous appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24.01.2025

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M.DHANDAPANI,J



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Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

To

1. The Motor Accident Claims Tribunal,
Subordinate court, Sankari.
2. The Section Officer,
V.R.Section, High court, Madras.

Civil Miscellaneous Appeal No.139 of 2025

24.01.2025