



CMA.No.138 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CMA.No.138 of 2025

and

CMP.No.1228 of 2025

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam.

...Appellant

Vs.

1. Anbu
2. Saraswathi
3. Nanthini
4. Minor Sivagami
Rep. by Next Friend Mother Saraswathi

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, challenging the decree and judgment dated 30.04.2024 made in MCOP.No.145 of 2023 on the file of the Additional District Judge, Ariyalur.

For Appellant : Mr.M.Murali Vinodh

For Respondents : Mr.S.Ramprabu
for M/s.T.Ananthasekar



CMA.No.138 of 2025

WEB COPY

JUDGMENT

Challenging the judgment and decree dated 30.04.2024 made in MCOP.No.145 of 2023 on the file of the Motor Accident Claims Tribunal /Additional District Judge, Ariyalur, the appellant-insurance company has come up with this appeal.

2. Mr.S.Ramprabu for Mr.T.Ananthasekar, learned counsel takes notice on behalf of the respondents. In view of the consent expressed by the learned counsel on either side, this appeal is taken up for final disposal at the admission stage itself.

3. It is the case of the claimants that, on 13.08.2023 at about 5.25 am., when the deceased Tamilarasan was proceeding from his house towards Thriuvaiyaru in a TVS Excel Heavy Duty motor cycle bearing Regn.No.TN-49-P-2901 on Thanjavur-Ariyalur main road, pursuant to the request of the 1st respondent, who is the father of the deceased, at that time, the appellant transport corporation bus bearing Regn.No.TN-68-N-0396 driven by its driver in a rash and negligent manner came from the opposite direction and dashed against the two wheeler in which the



CMA.No.138 of 2025

WEB COPY

deceased was travelling, due to which the deceased sustained grievous injuries on his head and right leg and died on spot. Thereby, the respondents/claimants, who are the dependents of the deceased Tamilarasan filed a claim petition in MCOP.No.145 of 2023 claiming a compensation of Rs.25,00,000/-. Before the Tribunal, the claimants examined two witnesses viz., P.W.1 and P.W.2 and marked exhibits P.1 to P.14 and on the side of respondents, two witnesses viz. R.W.1 and R.W.2 were examined and exhibits R.1 and R.2 were marked. After trial, the Tribunal, on appreciation of oral and documentary evidence awarded a sum of Rs.24,08,360/- towards compensation for the death of the deceased Tamilarasan, payable by the appellant/insurance company to the respondents. Aggrieved by the same, the appellant/insurance company has come up with this appeal.

4. Learned counsel for the appellant/Insurance company submitted that at the time of accident, the deceased was aged about 19 years and he did not possess valid Driving license, Insurance and Registration certificate and the above said accident happened solely due to the rash and negligent driving on the part of the deceased. While so, merely



CMA.No.138 of 2025

because the FIR came to be registered as against the driver of the appellant insured vehicle, the tribunal had fastened the majority of the liability of 85% as against the appellant and had only fixed a contributory negligence of 15% on the deceased, which is not sustainable, since FIR is not a substantive document and whatever is spoken in the FIR need not be taken at its face value and the FIR may not and need not contain all the details and it is settled law that FIR is not a conclusive proof nor is an encyclopedia for deciding the case and it is only to set the criminal law in motion and no further. Further, though the claimants claimed that at the time of accident the deceased was aged about 19 years and had completed ITI Course in Welding and was working as a Welder and was earning a sum of Rs.25,000/- per month, however, in order to prove the same, no documentary evidence has been produced by the claimants. Even then, the tribunal had taken the monthly income of the deceased as Rs.18,000/-, which is highly excessive and the compensation awarded under other heads are also on higher side and the same has to necessarily be interfered with. Accordingly, he prayed for appropriate orders.



CMA.No.138 of 2025

WEB COPY

5. Per contra, the learned counsel appearing for the respondents submitted that, by considering all the relevant documents, the Tribunal passed the present impugned award, which cannot be said to be erroneous and the quantum of compensation awarded by the tribunal is already on the lower side and the same does not require further reduction. Accordingly, he prayed for dismissal of the appeal.

6. Heard learned counsel on either side and perused the material documents placed on record.

7. The main contention of the learned counsel for the appellant relates to the fact that the deceased had not possessed valid Driving license, Registration Certificate and Insurance at the time of the accident and the entire accident had taken place solely due to the negligence on the part of the deceased, however, the tribunal had fixed only a contributory negligence of 15% on the part of the deceased, which is not sustainable. Though such a stand has been taken by the learned counsel for the appellant/insurance company, however, mere non possession of driving license cannot be taken to mean that the contribution is highly on



CMA.No.138 of 2025

the side of the deceased. At best, not holding of valid driving license can only result in a contributory negligence and the tribunal after careful perusal of all the documents placed before it had fixed 15% contributory negligence on the part of the deceased, which cannot be said to be perverse, considering that the vehicle driven by the deceased is a TVS-Moped.

8. Further, it is borne out by record that, in order to prove the negligence on the part of the driver of the appellant transport corporation, one Settu, who is an individual eye witness has been examined on the side of the claimants before the tribunal, who has clearly spoken about the manner in which the accident had taken place and he categorically deposed that the accident was due to the rash and negligent driving of the driver of the appellant transport corporation. Though such a deposition has been made, however, the appellant had not taken any endeavour to dislodge the said deposition by placing any evidence, contra to the same so as to disprove the testimony of the said witnesses. When an individual eye witness had clearly deposed the manner in which the accident had happened and had pointed finger on



CMA.No.138 of 2025

WEB COPY

the driver of the appellant transport corporation bus, for rash and negligent driving, the appellant having not examined any proper witnesses and having not adduced any contra evidence in order to disprove the case of the claimants, the mere fact that the deceased did not possess valid Driving license, Registration certificate and insurance cannot be the basis to fasten the entire negligence on the part of the deceased. Hence, this Court, this Court is not inclined to interfere with the contributory negligence of 15% fixed by the tribunal on the part of the deceased.

9. With regard to quantum of compensation, it is the claim of the appellant that the compensation awarded by the Tribunal is highly excessive which requires reconsideration. In this regard, this Court perused the impugned award passed by the Tribunal and upon perusal of the impugned award, this Court is of the view that, by no stretch the compensation awarded in the appeal could be said to be excessive or disproportionate. Therefore, this Court is not inclined to interfere with the impugned award passed by the Tribunal.



CMA.No.138 of 2025

WEB COPY

10. Accordingly, this Civil Miscellaneous Appeal stands dismissed, confirming the impugned award dated 30.04.2024 passed by the Tribunal in MCOP.No.145 of 2023 and the Appellant-Insurance company is directed to deposit the compensation of Rs.24,08,360/- awarded by the tribunal to the credit of MCOP.No.145 of 2023 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount to the claimants directly to their bank accounts through RTGS within a period of two (2) weeks thereafter as per the apportionment made by the tribunal, with proportionate interest and costs. There shall be no order as to costs in this appeal. Consequently, the connected Miscellaneous petition is closed.

24.01.2025

skt

NCC : Yes/No
Index : Yes/No
Speaking Order : Yes/No



WEB COPY



CMA.No.138 of 2025

To:

The Motor Accident Claims Tribunal/
Additional District Judge,
Ariyalur.



WEB COPY



CMA.No.138 of 2025

M.DHANDAPANI, J.

skt

CMA.No.138 of 2025
and
CMP.No.1228 of 2025

24.01.2025