



C.M.A.(MD)No.1370 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 07.02.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.1370 of 2024

and

CROS.OBJ.(MD)No.1 of 2025

and

C.M.P.(MD)No.14828 of 2024

C.M.A.(MD)No.1370 of 2024:-

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Vannarpettai,
Tirunelveli.

... Appellant

Vs.

K.Syed Ibrahim

... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree passed in M.C.O.P.No.1331 of 2021, dated 07.11.2023 on the file of the Motor Accident Claims Tribunal cum Principal Sub Court, Tirunelveli.

For Appellant : Mr.S.Micheal Heldon Kumar

For Respondent : Mr.I.Robert Chandrakumar



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CROS. OBJ.(MD)No.1 of 2025:-

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K.Syed Ibrahim

... Appellant

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Vannarpettai,
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PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree passed in M.C.O.P.No.1331 of 2021, dated 07.11.2023, on the file of the Motor Accident Claims Tribunal (Principal Sub Court), Tirunelveli.

For Appellant : Mr.I.Robert Chandrakumar

For Respondent : Mr.S.Micheal Heldon Kumar

COMMON JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant Corporation, challenging the award passed by the learned Motor Accident Claims Tribunal (Principal Sub Judge), at Tirunelveli, in M.C.O.P.No.1331 of 2021 dated 07.11.2023.

2.Challenging the quantum and seeking enhancement of the award, the injured has filed Cross Objection (MD)No.1 of 2025.



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3.The factual matrix of the present case, briefly stated, are as under:-

On 26.02.2021, at about 11.00 a.m., while the respondent had travelled in the appellant Corporation bus bearing registration No.TN-72-N-1408 from Thoothukudi – Tirunelveli road, he got out of the bus, standing on the left side of the road. The bus driver in a rash and negligence manner and carelessly turned the bus towards north and the rear tire of the bus ran over the respondent's right leg. As the result, the respondent suffered a fracture on the right leg and the entire foot of his right foot was amputated. At the time of the accident, the respondent was working in Siva Murugan Metals Company and was earning a sum of Rs.16,000/- per month. Due to the injury, the respondent has suffered permanent disability and he is unable to walk independently as before. He is still undergoing treatment. Hence, he has filed claim petition, claiming a sum of Rs.30,00,000/- as compensation.

4.One witness was examined and 9 documents were marked on the side of the claimant/respondent. One witness was examined and no document was marked on the side of the appellant Corporation. One Court document was marked. The learned Tribunal allowed the claim petition, directing the appellant Corporation to pay a sum of Rs.26,86,000/- as compensation to the



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respondents. Challenging the same, this Civil Miscellaneous Appeal is filed.

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5.The learned counsel appearing for the appellant Corporation submitted that the transport Corporation has filed this Appeal on two grounds, namely, quantum, which is exorbitant and negligence, which has been fixed as 50-50 on the injured as well as the Transport Corporation bus. Explaining the nature of accidental death, the learned counsel submitted that while the transport Corporation bus bearing registration No.TN-72-N-1408, was entering into the Thoothukudi old bus stand, even before the bus was put to a halt, the injured had stepped down the bus, as a result of which, the back wheel of the bus had ran upon the respondent's feet and crushing the same. The learned Tribunal ought to have fixed at least 75% of the negligence on the part of the injured because the accident happened only because of the attitude of the injured to get down of the bus even before it came to a halt. The accident could very well be prevented, if he had opted to get down of the bus after the bus entered the bus stand and was fully brought to a halt. That apart, he also insisted that 50% disability has given and the learned Tribunal has preferred to conclude that the disability had resulted in functional disability to 100%, causing removal of feet portion of the leg of the injured. The loss of future prospects has been fixed as Rs.23,40,000/-, which is exorbitant. On that basis, he pressed for allowing the



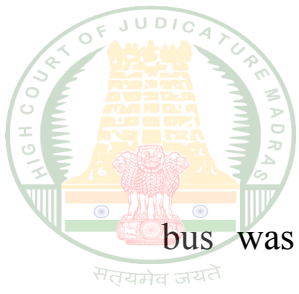
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6.Per contra the learned counsel appearing for the cross objector submitted that the notional income, which is fixed on the basis of Andal case as Rs.12,000/- is very less. The judgment of Andal case was delivered as early as in the year 2019. However, the accident happened only in the year 2021 and hence, the learned Tribunal ought not to have relied upon the Andal case and fixed monthly notional income of Rs.12,000/-, when the petitioner was had been serving as the Salesman drawing nearly Rs.25,000/- per month and on that basis, he sought for interference of this Court and enhancing the notional income, considering the fact that the accident had happened after the Andal case, that is, in the year 2021.

7.Heard the learned counsel for the appellant, the learned counsel for the respondents and carefully perused the materials available on record.

8.No doubt, the accident had happened exclusively due to the carelessness of the injured, who had opted to step down the bus even before the bus was brought to a halt before entering the Thoothukudi old Bus stand. Had the injured been diligent and patient enough to remain within the bus till the

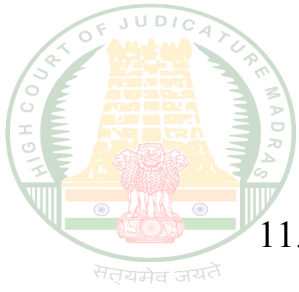


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bus was fully brought to halt, the accident could have been completely thwarted. Hence, I do not find any demerit in the learned Tribunal fixing 50-50 negligence on the part of the bus driver as well as the injured.

9.However, as far as the argument put forth by the learned counsel for the Cross Objector that the learned Tribunal ought not to have relied upon the judgment in the Andal case, which was delivered in the year 2019, for an accident, which had happened in the year 2021 for fixing the notional income of the injured, who had served as a Salesman with Rs.12,000/-. When this Court sought for the learned counsel whether any documents were marked before the learned Tribunal to substantiate his monthly income, the learned counsel could not answer positively.

10.I carefully perused the materials available on record and I could find out that the injured had not opted to mark any documents, which would prove his monthly income, as more than Rs.12,000. Hence, I do not find any necessity to interfere with the award passed by the learned Tribunal and the same is confirmed. Accordingly, the Civil Miscellaneous Appeal stands dismissed and the Cross Objection is also dismissed.



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11.The respondent/claimant is entitled to the award amount with interest

at the rate of 7.5% from the date of the claim petition till the date of realization.

The appellant Transport Corporation is directed to deposit the award amount with 7.5% interest from date of the claim petition till the date of realization and the amount if not deposited earlier, has to be deposited within a period of 8 weeks from the date of receipt of copy of this order. On such deposit, the respondent is permitted to withdraw his respective share, after deducting any amount received by them earlier. The respondent/claimant is not entitled for interest for the default period, if there is any. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

07.02.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn

To

- 1.The Motor Accidents Claims Tribunal,
(Principal District Judge), Tirunelveli.
- 2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Mrn

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and
Cros. Obj.(MD)No.1 of 2025**

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