

C.M.A.(MD)No.654 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.04.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.654 of 2024

and

C.M.P.(MD)No.7843 of 2024

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Number 2, Trivandrum Road,
Vannarpettai.

... Appellant

Vs.

Maheswari

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, to set aside the order of the Motor Accident Claims Tribunal cum Principal District Court, Tirunelveli, made in M.C.O.P.No.227 of 2023 dated 31.10.2023 and allow this appeal with costs.

For Appellant : Mr.S.Micheal Heldon Kumar

For Respondent : Mr.R.J.Karthick



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JUDGMENT

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This Civil Miscellaneous Appeal has been filed challenging the order 31.10.2023 made in M.C.O.P.No.227 of 2023 on the file of the Motor Accident Claims Tribunal cum Principal District Court, Tirunelveli.

2. For the sake of convenience, the parties herein are referred to, as per their rank before the Tribunal.

3. The brief facts in a nutshell are as follows:

(i) The petitioner is the mother of the deceased, and the respondent is the Transport Corporation. On 03.02.2023 at about 00.50 hours, the deceased Sakthivel was driving a Tata Ace vehicle bearing Registration No.TN-76-AT-6910, from south to north along the Tenkasi-Madurai National Highway. When he was travelling near Vasudevanallur Fire Service Station, a bus bearing Registration No.TN-72-N-2079 belonging to the respondent Corporation came from the opposite direction dashed against the Tata Ace. As a result of which the accident occurred. The deceased Sakthivel was admitted in the Government Hospital, Sivagiri, and thereafter referred to Tirunelveli Medical College Hospital for a better



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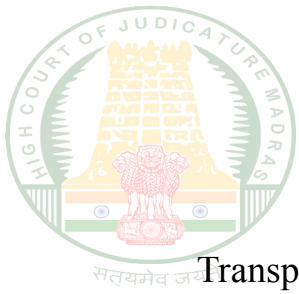
treatment, wherein he died on the same day. He was survived by his mother, who is the sole legal heir.

(ii) A criminal case has been registered by Vasudevanallur Police Station in Crime No.26 of 2023 against the driver of the respondent bus for the offences punishable under sections 279 and 304 (A) of IPC. The deceased Sakthivel was 22 years at the time of the accident and he was a driver by profession and was earning a sum of Rs.30,000/- per month. Hence, the mother of the deceased had laid the M.C.O.P. before the learned Tribunal, seeking compensation of Rs.50,00,000/- for the death of her son.

(iii) The learned Tribunal examined two witnesses on the side of the petitioner as P.W.1 and P.W.2 and marked Ex.P.1 to Ex.P.7. One witness was examined on the side of the respondent and no documents were marked.

(iv) On the basis of the arguments made by the respective parties, the evidence deposed and the materials available on record, the Tribunal proceeded to pass an award of Rs.23,33,000/- in favor of the claimant. Challenging the same, the present appeal has been filed.

4. The learned Counsel appearing for the appellant submitted that the vehicle driven by the deceased and the bus belonging to the appellant



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Transport Corporation were travelling in the opposite direction and dashed against each other directly and the same is the head on collision. Hence, the Tribunal ought to have fastened 50% liability to the deceased on the principle of contributory negligence. He further submitted that the amount awarded under the head of transportation is exorbitant and sought for interference of this Court.

5. The learned Counsel appearing for the respondent submitted that the order passed by the judgment of the Tribunal is proper and the same need not be interfered with.

6. Heard the learned Counsel for the appellant and the learned Counsel for the respondent and carefully perused the materials available on record.

7. The learned Tribunal had proceeded to fasten full liability on the respondent Transport Corporation in entirety by observing that the accident occurred due to the fault of the Transport Corporation bus driver, relying upon the First Information Report registered against the driver of the bus. It is also pointed out by the Tribunal that even though P.W.1, i.e., the



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claimant was examined, no adverse material has been brought forward during cross-examination that the accident occurred only due to the rash and negligent of the deceased Sakthivel. Relying upon the evidence of P.W.1 and Ex.P.1, the Tribunal concluded that the accident occurred only due to the rash and negligent driving of the respondent bus driver. The respondent bus was self insured and as such, it was decided by the Tribunal that being the owner of the bus involved in the accident, the respondent corporation alone is liable to pay the compensation.

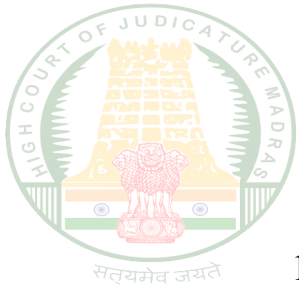
8. As far as the argument placed before this Court by the learned counsel for appellant that the accident was a head-on collision and that contributory negligence ought to have been fixed by the Tribunal, a careful perusal of the document on record would reveal that the Transport Corporation miserably failed to mark the observation mahazar and the accident sketch. In the absence of the same, the Trial Court obviously would have been handicapped in assessing the nature and cause of the accident which had happened and was left with no other option, but to rely on the First Information Report alone. Accordingly, I do not find any materials to interfere with the order passed by the Tribunal on the aspect of contributory negligence. As far as the the amount awarded under the head



of transportation is concerned, the same is modified and is reduced from Rs.10,000/- to Rs.5000/-. Considering all the above circumstances, the award passed by the Tribunal is modified as follows:

S. N o.	Description	Amount awarded by the Tribunal	Amount awarded by this Court	Award confirmed or enhanced
1.	For Transportation	Rs.10,000/-	Rs.5,000/-	Reduced
2.	For Funeral Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
3.	For Loss of Love and Affection	Rs.25,000/-	Rs.25,000/-	Confirmed
4.	For Loss of Income	Rs.22,68,000/-	Rs.22,68,000/-	Confirmed
5.	For Loss of Estate	Rs.15,000/-	Rs.15,000/-	Confirmed
	Total	Rs.23,33,000/-	Rs.23,28,000/-	Reduced by Rs.5,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.23,33,000/- (Rupees Twenty Three Lakh Thirty Three Thousand only) is hereby reduced to Rs.23,28,000/- (Rupees Twenty Three Lakh Twenty Eight Thousand only). The claimant is entitled to get compensation, as per the apportionment made by the Tribunal.



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10. The appellant Transport Corporation is directed to deposit the compensation amount with accrued interest and costs to the credit of M.C.O.P.No.227 of 2023 on the file of the Motor Accidents Claims Tribunal cum Principal District Court, Tirunelveli, within a period of six (6) weeks from the date of receipt of copy of this judgment, less the amount, if any already deposited. On such deposit, the claimant is permitted to withdraw the said amount, less the amount, if any already withdrawn, by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

24.04.2025

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

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- To
1. The Principal District Judge, Tirunelveli.
 2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

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