



C.M.A.(MD) No.1132 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.07.2025

CORAM:

THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN

C.M.A.(MD) No.1132 of 2022

and

C.M.P.(MD).Nos.11562 of 2022 and 11405 of 2025

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Periyamilaguparai,
Trichy. ... Appellant/Respondent

Vs.

1.S.Yasodha
2.S.Raghavendran ... Respondents/Claimants

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act, 1988, to set aside the order passed in M.C.O.P.No.418 of 2017 on the file of the MACT (Special District Judge), Tiruchirappalli, dated 01.11.2019.

For Appellant : Mr.P.M.Vishnu Varthanan

For Respondents : Mr.R.Gowri Shankar



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JUDGMENT

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This civil miscellaneous appeal has been filed by the Transport Corporation challenging the award passed in M.C.O.P.No.418 of 2017 on the file of the MACT (Special District Judge), Tiruchirappalli, dated 01.11.2019.

2.The deceased Sambath Kumar on 14.03.2017 was riding his vehicle on Manapparai – Tiruchirappalli Road, from North to South direction. At that time, the vehicle of the appellant transport corporation dashed against the above said vehicle in rash and negligent manner and the deceased sustained head injuries and also injuries in the right leg and died in the hospital. Hence, the FIR registered against the appellant corporation driver namely RW1 in Crime No.98 of 2017 by the jurisdictional police station. The dependents of the deceased filed the claim petition claiming compensation of Rs.20,00,000/-. The appellant corporation disputed the accident and also specially raised the plea that the accident happened due to the act of the deceased and hence, the appellant corporation is not liable to pay the compensation. They specifically took the stand that the deceased suddenly turned towards the petrol bunk.



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Hence, the accident was happened. The appellant also took the stand that the deceased did not wear the helmet and was not having any valid licence.

3.To prove the case, on the side of the claimant PW1 to PW3 were examined and Exs.P1 to P6 were marked. On the side of the respondent driver was examined and Exs.X1 and X2 were marked.

4.The tribunal after considering the entire evidence on record fixed the liability upon the appellant corporation and also fixed the total compensation as Rs.26,77,764/-.

5.Challenging the same, the corporation filed the appeal. The learned counsel for the Corporation would submit that the contributory negligence was not considered by the Tribunal. The tribunal has not considered the circumstances of the case and fixed the entire negligence upon the corporation without considering the entire evidence on record. The deceased himself is responsible for the accident. Apart from that the deceased did not wear the helmet and as per the order of the Honourable



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Division Bench 50% has to be deducted. He also relied the evidence of RW1, PW2 and Ex.P1. From the reading of the entire FIR and evidence of PW2 and RW1, it is clear that the deceased did not wear the helmet. The death was caused due to the head injury. Hence, he seeks to fix the negligence on the part of the deceased.

6.The learned counsel for the claimants would submit that merely because of the non wearing of the helmet, the negligence cannot be contributed against the deceased. Therefore, he seeks to confirm the award passed by the learned Tribunal. Further from the evidence of PW2 it is clear that the entire negligence was on the part of the appellant corporation driver namely RW1. This was properly considered by the learned trial Judge and hence, this Court need not interfere with the findings. It does not warrant any interference.

7.This Court considered the rival submissions and perused the records.



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8.From the reading of evidence of PW2 eye witness to the occurrence and the driver RW1 it is clear that the deceased did not wear the helmet. The death was caused due to the head injuries. The Hon'ble Division Bench of this Court consistently had taken into account of the non-wearing of helmet and resultant head injuries and fixed the contributory negligence on the facts of each case.

9.Therefore, in view of the special circumstances of the present case that the deceased died only due to the head injuries and non-wearing of helmet has aggravated the cause of death and 10% of compensation to be deducted towards the contributory negligence of the deceased. If the deceased had wore the helmet, accidental injuries could have been averted and his life would have been saved. In the said circumstances, this Court is inclined to reduce the compensation awarded by the Court below towards the contributory negligence on the part of the deceased a sum of Rs.3,00,000/-. Hence, this Court is inclined to reduce the compensation from Rs.26,77,764/- to Rs.23,77,764/-.



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10.The learned counsel for the corporation submitted that the entire award amount was deposited and if do so, he is entitled to withdrawn the remaining amount and the claimants are entitled to the reduced award amount of Rs.23,77,764/- with interest as per the decree.

11.Accordingly, the appeal is partly allowed and the compensation amount is hereby reduced from 26,77,764 to Rs.23,77,764/- with interest of 7.5% from the date of filing of the petition. The appellant corporation had deposited the entire award amount. Hence, the claimants are entitled to withdraw the award amount passed by this Court.

12.Accordingly, this Civil Miscellaneous Appeal is partly allowed on the following terms:

12.1. The award passed in M.C.O.P.No.418 of 2017 on the file of the MACT (Special District Judge), Tiruchirappalli, dated 01.11.2019 is reduced from Rs. 26,77,764 to Rs.23,77,764/- with interest of 7.5% from the date of filing of the petition.

12.2. Since the appellant corporation had deposited the entire award amount, the claimants are permitted to withdraw the above reduced award



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amount passed by this Court.

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12.3.The appellant is permitted to withdraw the remaining amount, if any.

Consequently, connected Civil Miscellaneous Petitions are closed.

28.07.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
TM/*sbn*

To

1.The District and Sessions Judge, Special Court, Motor Accident Claims Tribunal, Tiruchirappalli.

2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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K.K. RAMAKRISHNAN, J.

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