



1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2025

CORAM :

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

C.M.A.(MD).No.608 of 2025

and

CMP(MD)No.9950 of 2025

Branch Manager,
Tamil Nadu State Transport Corporation,
Uppliyapuram Tepo,
Thuraiyur (Tk),
Trichy (Dt).

... Appellant/Petitioner

Vs.

1.Ambujam

2.Sujitha

3.Ishwarya

... Respondents/Respondents

PRAYER : Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, 1988, to allow this appeal by setting aside the order and decreetal order dated 12.12.2024 made in MCOP.No.415 of 2023 on the file of the Motor Accident Claim Tribunal/The learned Subordinate Judge, Musiri.

For Appellant : Mr.K.Ramaiah
Standing Counsel for TNSTC
(Madurai, Kumbakonam, Tirunelveli)

For Respondent : Mr.S.Vashik Ali

**ORDER**

WEB COPY The appellant/Transport Corporation has filed this Civil Miscellaneous Appeal challenging the liability, negligence and quantum of compensation awarded in MCOP.No.415 of 2023 on the file of the Motor Accident Claim Tribunal/The learned Subordinate Judge, Musiri.

2. It is a case of fatal accident, which took place on 08.12.2023, at about 12.45 a.m. To reach Thuraiyur Bye-pass Road Roundana, the deceased Kumar and his brother-in-law, namely, Gopinath, boarded a town bus bearing Reg.No.TN-45-N-3065 at Musiri, Kaikatti. After 5 minutes, when the deceased was getting down from the bus, the driver of the appellant/Transport Corporation without noticing the same moved the bus in a rash and negligent manner, and as a result, the deceased fell down under the back wheel of the bus. After an alarm made by the passengers, the driver stopped the bus. Immediately, he was taken to Musiri Government Hospital. However, he succumbed to injuries on the way to hospital.

3. Hence, a case in Crime No.480 of 2023 was registered against the driver of the bus for the offence under Sections 279 and 304 (A) of I.P.C., by Musiri Police. Thereafter, the respondent filed a claim petition in M.C.O.P.No.415 of 2023 before the Motor Accident Claim Tribunal/The



learned Subordinate Judge, Musiri, seeking compensation of Rs.50,00,000/-.

4. The appellant/Transport Corporation filed a counter denying the negligence and also the monthly income of the deceased.

5. Before the Tribunal, on the side of the claimant two witnesses were examined as P.Ws.1 & 2 and 9 documents as Exs.P.1 to P.9 were marked and on the side of the Transport Corporation no one was examined and no document was marked.

6. Finding of the Tribunal:

The Tribunal, after considering all the aspects, fixed the negligence on the driver of the bus. Even though the respondents/claimants pleaded that the deceased was earning a sum of Rs.60,000/- per month, no evidence was adduced to prove the same. Hence, the learned Judge fixed the notional income of the deceased as Rs.17,534/- per month by adopting '*Cost Inflation Index Method*'. Since the claimants are three in numbers, deducted 1/3 amount towards personal expenses and considering the age of the deceased as 58 years, multiplier of '9' was taken into account and also added 10% towards future prospects, granted Rs.48,000/- (each claimant) towards Loss



of consortium, Rs.18,000/- towards Loss of Estate and Rs.18,000/- towards Funeral Expenses and totally awarded a sum of **Rs.15,68,664/-** as compensation under the following heads:

<i>Sl.No.</i>	<i>Heads</i>	<i>Amount in Rupees</i>
1.	Loss of Dependency	Rs.13,88,664/-
2.	Loss of consortium (Rs.48,000/- x 3)	Rs. 1,44,000/-
3.	Loss of Estate	Rs. 18,000/-
4.	Funeral expenses	Rs. 18,000/-
	Total	Rs.15,68,664/-

7. Challenging the same, the appellant/Transport Corporation has filed this appeal questioning the liability, negligence and also the quantum.

8.The learned counsel for the appellant/Transport Corporation would submit that the deceased was solely responsible for the accident. The deceased was standing on the footboard and in spite of the warning given by the conductor, the deceased did not heed, and in a hurried way, he alighted from the bus before the driver stopped the bus at the bus stop. But, the learned trial judge fixed the liability on the driver of the bus of the appellant/Transport Corporation. Hence, he seeks to allow this appeal by setting aside the appeal.



9. The learned counsel for the respondents/claimants would submit that FIR and the other material documents and the evidence of P.W.2 clearly prove the negligence on the part of the driver as well as the conductor of the bus. Upon perusal of the oral and documentary evidence, the tribunal awarded the compensation and hence, it does not require no interference. Hence, he prayed for dismissal of the appeal.

10. This Court heard the rival submissions made on either side and perused the award passed by the Tribunal.

11. The following points arise for consideration of this appeal:

i) Whether the compensation granted is in accordance with law?

12. According to the learned counsel for the appellant/Transport Corporation, the deceased travelled on the footboard and hence, he is responsible for the accident but, the learned trial judge considered the independent evidence, fixed the negligence on the driver of the bus which is correct. No contrary evidence was adduced by the appellant/Transport Corporation before the learned Tribunal Judge. FIR and the other material documents and the evidence of P.W.2 show the negligence on the part of the driver as well as the conductor of the bus. In the case of footboard travel, it is



the duty of the conductor to advise the passenger to get inside the bus. If the passenger does not heed, it is the responsibility of the conductor to stop the bus and drop the passenger. Allowing a passenger to travel on the footboard without taking such precautions amounts to negligence on the part of the conductor. It is the duty of the conductor to ensure the safety of passengers by advising them not to travel on foot board. Furthermore, there is no evidence on record to show that this duty was done by the said conductor. There is also no evidence to prove that the accident occurred as a result of footboard travel. In the absence of such evidence, this Court finds no merit in the contention that this the deceased travelled on foot board which led to his death.

13. Dehors the said lapse on the part of conductor, the Public transport corporation has violated the Motor Vehicles Act by operating the the bus without closing its door, which is contrary to the safety guidelines of the Motor Vehicles Act. If the door-closing mechanism had been properly fixed, the said accident could have been avoided. As per the Automotive Industry Standard for Bus body code AIS-052, automatic doors are to be fixed in order

- (i) to ensure passenger safety while boarding and alighting,*
- (ii) to prevent travel on the footboard or outside the bus body,*
- (iii) to avoid accidents due to sudden movement or falls from the*



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14 Public transport Corporation buses are running without the automatic door to avoid such accident which amounts to negligence and careless act. Therefore, this reason also justifies the finding of the learned trial Judge in holding that the driver of the Transport Corporation was at fault in driving the bus.

15. The learned counsel for the appellant/Transport Corporation would submit that the notional income of Rs.17,534/- has been taken without any evidence. It is the specific case of the respondents/claimants that the deceased was working as document writer and earning more than Rs.60,000/- per month. But, no evidence was produced to prove the same,. Hence, the learned Judge followed the “Cost Inflation Index Method” in fixing the notional income of the deceased. The accident took place in the year 2023 and the cost inflation index for the year 2023 – 2024 is '348' and the learned Judge calculated the Notional Income of the deceased as Rs.17,534/- (6500 x 348/129) and the same is in accordance with law.

16. In the said circumstances, in all aspects, this Court finds no merit in the contention of the learned counsel for the respondents/claimants. The



learned trial Judge correctly granted the compensation of Rs.15,68,664/- upon perusal of the oral and documentary evidence adduced by the respondents/claimants. No contrary evidence was adduced by the appellant/Transport corporation. In the above circumstances, this Court finds no merit in the appeal and hence, the appeal is liable to be dismissed.

17. Accordingly, the Civil Miscellaneous Petition stands dismissed and the order and decreetal order dated 12.12.2024 made in M.C.O.P.No.415 of 2023 on the file of the Motor Accident Claim Tribunal/The learned Subordinate Judge, Musiri, is hereby confirmed. There shall be no order as to costs.

04.07.2025

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

1. The Motor Accident Claim Tribunal/
The learned Subordinate Judge, Musiri.
2. The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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9

K.K.RAMAKRISHNAN, J.

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