



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.561 of 2025

and

CMP(MD)No.9455 of 2025

The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam Division Ltd.,)
Periyamilagiparai,
Trichy Region,
Tiruchirappalli-1.

... Appellant/1st Respondent

Vs.

1.V.Ramar

... 1st Respondent/Claimant

2.Sezhiyan

... 2nd Respondent/2nd Respondent

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 decretal order dated 02.01.2025 made in MCOP.No.215 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 R1 : Mr.K.Arun Raj



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ORDER

The appellant/Transport Corporation has filed this Civil Miscellaneous Appeal challenging the negligence and quantum of compensation awarded in MCOP.No.215 of 2023 on the file of the Motor Accident Claim Tribunal/The learned Subordinate Judge, Musiri.

2. It is a case of a fatal accident, which took place on 17.03.2023, at about 10.00 a.m. When the first respondent/claimant was riding a two-wheeler bearing Reg.No.TN-48-AU-2775 and proceeding towards Trichy to Salem Main Road, a government bus belonging to the appellant/Transport Corporation bearing Reg.No.TN-45-N-4135, came from East to West in a rash and negligent manner and dashed against the first respondent's two wheeler, and as a result, the first respondent sustained multiple injuries and fractures in different parts of the body. Immediately, he was taken to Akshaya Hospital, Thottiyam. After first aid, he was shifted to MM Hospital, Namakkal, where he had taken treatment from 17.03.2023 to 19.04.2023 as an inpatient.

3. Hence, a case in Crime No.79 of 2023 was registered against the driver of the appellant/Transport Corporation for the offence under Sections



279 and 337 of I.P.C., by Thottiyam Police, Trichy District. Then, the first respondent filed a claim petition in M.C.O.P.No.215 of 2023 before the Motor Accident Claim Tribunal/The learned Subordinate Judge, Musiri, seeking compensation of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only).

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

5. Before the Tribunal, on the side of the first respondent/claimant he examined himself as P.W.1 and marked 8 documents as Exs.P.1 to P.8 and on the side of the appellant/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 and fixed a sum of **Rs.3,08,000/-** [$7,000 \times 44\% = 1,86,000/-$] towards compensation for **permanent disability** on the basis of Ex.C1. Even though the first respondent/claimant pleaded that the injured was earning a sum of Rs.30,000/- per month, no evidence was adduced to prove the same. Hence, the learned Judge fixed the notional income of the injured as Rs.15,000/- per month considering the age of the injured that he is



57 years. Since the injured could not have attended his avocation atleast for 3 months, the learned trial Judge awarded a sum of **Rs.45,000/-** under the **head of Loss of Income** and awarded a sum of Rs.60,000/- and awarded a sum of **Rs.5,000/- for Transport charges** and awarded a sum of **Rs.5,000/- for nutritious food** and awarded a sum of **Rs. 7,47,594/-** towards medical expenses on the basis of **Ex.P.3 and Ex.P.4** and awarded a sum of **Rs.5,000/- attendant charge** and awarded a sum of **Rs.5,000/-** and totally awarded a sum of **Rs.10,62,535/-** after deducting 10% for not wearing helmet as compensation under various heads which are as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Amount in Rupees</i>
1.	Permanent disability	Rs. 3,08,000/-
2.	Loss of Income	Rs. 45,000/-
3.	Pain and suffering	Rs. 60,000/-
4.	Transport Charges	Rs. 5,000/-
5.	Nutritious Food	Rs. 5,000/-
6.	Medical Expenses	Rs. 7,47,594/-
7.	Attendant Charges	Rs. 5,000/-
8.	Comfort and amenities	Rs. 5,000/-
	Total	Rs.11,80,594/-
	Total after deducting 10% for not wearing helmet. (Rs.11,80,594 – Rs.1,18,059/-)	Rs.10,62,535/-

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



WEB COPY 8. The learned counsel for the appellant/Transport Corporation would submit that the first respondent/claimant is solely responsible for the accident and he rode his two wheeler without wearing helmet and hence, he seeks to fix contributory negligence upon the first respondent.

9. The learned counsel for the first respondent/claimant would submit that FIR and the other material documents and the evidence of P.W.2 would unequivocally show 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 any 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. Negligence is concerned, the contention of the learned counsel for the appellant/Transport Corporation is that the first respondent/claimant, was



solely responsible for the accident, and he rode his two wheeler without wearing a helmet and hence, it is a violation of Motor Vehicle Rules. The violation of Motor Vehicle Rules is not a ground to fix the negligence on the part of the injured claimant.

13. Hence, the contention of the learned counsel for the appellant/Transport Corporation cannot be accepted as the FIR was registered against the driver of the bus of the appellant/Transport Corporation. The evidence by P.W.1, the injured claimant proves the negligence on the part of driver and no contrary evidence was adduced by the appellant/Transport Corporation. The learned trial Judge rightly appreciated the evidence of P.W.1 and fixed the negligence upon the driver of the appellant/Transport Corporation. Without any contrary evidence on the side of the appellant/Transport Corporation, to disprove the evidence of P.W.1, this Court has to agree with the finding of the learned trial judge.

14. The learned counsel for the appellant/Transport Corporation disputed the medical bills and Disability Certificate. The learned trial Judge after considering the Disability Certificate issued by the competent Medical Board, fixed the permanent disability as 43.2% and granted the amount of Rs.



3,80,000/- (44 x 7,000/-) and also granted the amount covered under the original medical bills, which were marked as Ex.P.3 and Ex.P.4.

15. In view of the above, this Court finds no merits to interfere with the negligence and quantum arrived by the learned Tribunal and hence the the Civil Miscellaneous Petition is dismissed.

16. Accordingly, the Civil Miscellaneous appeal is dismissed and the order passed in M.C.O.P.No.215 of 2023 on the file of the Motor Accident Claim Tribunal/The learned Subordinate Judge, Musiri, dated 02.01.2025, is hereby confirmed.

04.07.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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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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K.K.RAMAKRISHNAN, J.

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