



CMA.(MD).No.530/2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.12.2025

CORAM:

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

AND

THE HONOURABLE MRS. JUSTICE N.MALA

CMA.(MD).No.530/2023 & CMP.(MD).No.6799/2023

The Branch Manager
The National Insurance Company Limited
having its Office at No.5-A, Sub Collector
Office Road, Dindigul

... Appellant

-VS-

1.Backyalakshmi @ Backialakshmi
2.Minor Manojkumar
3.Minor Gomathi
4.Rajeshwari
5.Jeya Ramesh
****RR2&3 are minor and rep.by
their next friend and mother, R1**

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the fair and decreetal order dated 05.04.2022, made in MCOP No.428/2019 on the file of the Motor Accident Claims Tribunal, [Principal District Court], Dindigul.



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For Appellant : M/s.P.Manonmani

For RR 1 to 4 : Mr.S.Sarvagam Prabhu

JUDGMENT

(Judgment of the Court was made by N.MALA, J.)

(1)The appeal is filed against the order dated 05.04.2022, passed by the Motor Accident Claims Tribunal, [Principal District Court], Dindigul, in MCOP.No.428/2019, allowing the claim petition of the respondents 1 to 4 herein.

(2)The brief facts are as follows:-

(3)On 17.04.2019, at about 7.15 p.m., while the deceased Sathish Kumar, was travelling in the bus bearing Regn.No.TN-57-BD-1467 BSR from Karur to Dindigul road, in North-South direction, near Kaliyappanur Pirivu, the driver of the bus drove the bus in a rash and negligent manner, causing an accident, in which the deceased sustained grievous injuries and succumbed to the injuries on 18.04.2019. According to the claimants, the deceased was aged 42 years at the time of the accident and as a watchman employed in Chettinad Cement Company, was earning Rs. 17,000/- per month. The claimants, being the wife, children and mother



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of the deceased, filed the Claim Petition, claiming compensation of Rs. 25,00,000/- under various heads.

- (4)The appellant herein / Insurance Company filed a counter to the Claim Petition contending that the Claim was false, frivolous and vexatious. The Insurance Company contended that the deceased Sathish Kumar, was travelling on the footboard of the bus and fell off the bus due to his own negligence and carelessness. The Insurance Company contended that the Claim Petition was misconceived and liable to be dismissed since the accident did not occur due to the negligence of the driver.
- (5)The Tribunal framed necessary issues and on the basis of the evidence on record, allowed the Claim petition by awarding compensation of Rs. 20,96,456/- along with 7.5% interest per annum, from the date of filing of the petition till the date of realisation. Aggrieved by the Award passed by the Tribunal, the Insurance Company has filed the above Appeal.
- (6)The learned counsel for the appellant/Insurance Company submitted that the findings of the Tribunal on negligence were erroneous and unsustainable. The learned counsel submitted that the appellant/Insurance Company, examined the Conductor of the bus as RW1, in support of its contention that the accident occurred only due to



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negligence of the deceased. The learned counsel submitted that the

Tribunal erred in not properly appreciating the evidence of RW1 while returning its finding on negligence against the driver of the bus.

(7)The learned counsel for the respondents/claimants, on the other hand, submitted that the Tribunal appreciated the evidence in proper perspective and that there were absolutely no perversity in the findings of the Tribunal and therefore, the appeal deserved to be dismissed.

(8)Heard both sides and perused the materials placed on record.

(9)The only ground argued in the appeal by the learned counsel for the appellant/Insurance Company is, against the finding of the Tribunal on negligence. The Claims Tribunal, based on the evidence of PW1, PW2 and RW1 as well as the FIR, found that the negligence was attributable to the driver of the bus. It is seen that in the counter to the Claim Petition, the Insurance Company took a categorical stand that due to the carelessness of the deceased in travelling on footboard of the bus, the accident occurred and hence, there was no negligence on the side of the driver of the bus. To controvert the evidence of the claimants, the Insurance Company, examined RW1-Conductor of the bus. For reasons best known to the appellant/Insurance Company, it failed to examine the



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driver of the bus who is the best witness to speak about the nature of the accident. Be that as it may, a perusal of the records, reveal that the evidence of RW1 is against the pleading of the Insurance Company in the counter. RW1 deposed that the accident occurred when the deceased tried to board the bus near a speed breaker and that the deceased did not board the bus at the time of the accident. The evidence of RW1 is diametrically opposite to the categorical plea of the appellant/Insurance Company that the accident occurred while the deceased who was travelling on the footboard of the bus, accidentally fell down from it. The Tribunal taking note of the said discrepancy in the evidence of RW1 and counter of the appellant/Insurance Company, rejected the plea of the appellant/Insurance Company that the negligence of the deceased resulted in the accident. Therefore, the contention of the appellant/Insurance Company that the Claims Tribunal failed to appreciate the evidence of RW1 properly, cannot be sustained.

(10)The Claims Tribunal found that, apart from the oral evidence of PW1 and PW2, the recitals in Ex.P1-FIR, showed that the accident occurred due to the negligence of the bus driver. When the solitary evidence of the appellant/Insurance Company ran counter to the stand taken in the



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counter affidavit, the Tribunal cannot be faulted for finding that the accident occurred only due to the negligence of the bus driver.

(11) We therefore find no merits in the appeal and hence, the same is **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

[G.K.I., J.] [N.M., J.]
11.12.2025

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

To

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