

C.M.A.(MD) No.1492 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.02.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.1492 of 2024
and
C.M.P.(MD)No.15827 of 2024

1.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Rani Thottam, Nesamony Nagar,
Nagercoil.

2.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Office at 2, Thiruvananthapuram Road,
Vannarpettai,
Tirunelveli.

... Appellants/Respondents

VS.

1.Murugan
2.Gosal Ram
3.Veerapagu.

... Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against judgment and decree dated 12.04.2024 made in M.C.O.P.No.482 of 2022 passed by the Motor



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Accidents Claims Tribunal/ IIIrd Additional District Court,
Tirunelveli.

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For appellants : Mr.S.Micheal Heldon Kumar
For Respondents : No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Managing Director of the Tamil Nadu State Transport Corporation, Nagercoil and Tirunelveli, against the Award dated 12.04.2024 made in M.C.O.P.No.482 of 2022 passed by the Motor Accidents Claims Tribunal/IIIrd Additional District Court, Tirunelveli, on the negligence issue.

2. Parties are indicated herein as per their litigative status and ranking before the Trial Court.

3. Heard the arguments of the learned counsel for the appellants.

4. Upon consideration of oral and documentary evidence and after hearing both sides' arguments, the Tribunal held that as three



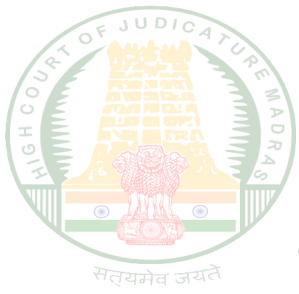
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persons travelled in the two wheeler at the time of accident, contributory negligence towards deceased was fixed at 30% and saddled the liability upon the respondents thereon/Transport Corporations to the extent of 70% and granted the compensation of Rs.12,94,580/- (70%) to the claimants herein.

5. As regards the issue of negligence, the respondents/Transport Corporations were saddled with liability to pay the compensation at 70%. This finding is under challenge in this appeal.

6. Two M.C.O.P.s (M.C.O.P.Nos.481 & 482 of 2022) were filed regarding the same accident. Common evidence was let in in M.C.O.P.No.481 of 2022 and common award was passed.

7. The learned counsel for the respondents/Transport Corporations would contend that only because of the rash and negligent driving of the rider of the two wheeler, the accident occurred and the Tribunal has wrongly fastened the liability at 70% upon the respondents/Transport Corporations.



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8. From the evidence of P.W.3/Abishalpushparathi, who is an ocular witness, it is inferable that on 24.12.2021, at about 10.30 p.m., the deceased Kamesh Pandiarajan as pillion along with one Tamilselvan/rider of the two wheeler, in a two wheeler bearing registration No.TN-74-AY-8192, was coming out from Vadaseri Christopher bus stand proceeding from north to south. While a bus bearing registration No.TN-32-N-3895 was entering into the bus stand from east to west, due to the rash and negligent driving of the driver of the respondents/bus, the bus hit upon the two wheeler. Due to the said impact, both the abovesaid persons were thrown out and sustained serious injuries and succumbed to the injuries.

9. Whereas, R.W.1/driver of the bus deposed to the effect that in fact, he drove the bus carefully and due to the rash and negligent driving of the rider of the two wheeler, the accident occurred. During his cross-examination, he would accede to the fact that FIR and Final Report have been filed against him and he was suspended for three days due to the accident.

10. On a careful perusal of the entire evidence of ocular



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witnesses, it is pellucid that the accident occurred at the second entrance, where the vehicles used to go out from the bus stand.

R.W.1/driver of the bus did not use the first entrance to enter into the bus stand. From the analysis of the abovesaid details, it is made clear that due to the rash and negligent driving of the driver of the respondents/bus, the accident occurred and the Tribunal has fixed the liability upon the respondents/Corporations at 70%. This Court does not find any good reason to upset the said findings of the Tribunal and this Court also does not find any infirmity or perversity in the findings of the learned Tribunal.

11. In the result,

(i) The Civil Miscellaneous Appeal stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

(ii) The compensation awarded by the Tribunal Rs.12,94,580/- (70%) is confirmed.

(iii) The appellants are directed to deposit the compensation amount of Rs.12,94,580/- (less the amount already deposited if



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any) with interest at 7.5% p.a. from the date of filing of the claim petition till the date of realisation to the credit of M.C.O.P.No.482 of 2022 on the file of the Motor Accidents Claims Tribunal/III Additional District Court, Tirunelveli, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimants/respondents are permitted to withdraw their share, as per the apportionment made by the Tribunal, with interest, after adjusting the amount, if any already withdrawn by filing necessary application before the Tribunal.

27.02.2025
(2/2)

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

To

1.The III Additional District Judge,
The Motor Accidents Claims Tribunal,
The III Additional District Court, Tirunelveli.

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



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R.KALAIMATHI,J

apd

Pre-delivery order made in
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