

CMA(MD)No.937 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.09.2025

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CMA(MD)No.937 of 2012
and
M.P(MD)Nos.1 of 2012 and 1 of 2013

The Managing Director,
M/s. Tamilnadu State Transport Corporation,
TVS Bus Stop,
Pillai thaneer vanthal,
Pudukottai.

... Appellant

vs.

1. Uggivanam
2. Sreeram
3. Nambi
4. Rajalakshmi
5. Mohansingh

... Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988,
against the judgment and decree dated 01.02.2011 passed in MCOP.No.
78 of 2009 on the file of the Motor Accident Claims Tribunal, Sub Court,
Devakottai.



CMA(MD)No.937 of 2012

WEB COPY

For Appellant : Mr.S.C.Herold Singh
For R1 to R3 : Mr.P.Saravanakumar

JUDGMENT

(Judgment of the Court was made by **P.VELMURUAN, J.**)

This appeal has been filed against the judgment and decree dated 01.02.2011 passed in MCOP.No.78 of 2009 on the file of the Motor Accident Claims Tribunal, Sub Court, Devakottai.

2. The facts of the case are that on 14.01.2008, the husband of the 1st respondent/claimant and father of the respondents 2 to 4/claimants namely, Ethirajan was travelling in a two wheeler bearing registration No.TN-63-T-4689 as a pillion and the said two wheeler was driven by the 3rd respondent/claimant. While they were coming on Karaikudi-Sekkalai road, a bus bearing registration No.TN-55-N-0383 belonging to the appellant transport corporation came in a rash and negligent manner and dashed against the said two wheeler, in which, the right side wheel of the bus ran over the left knee and left foot of the deceased. Immediately, he was taken to Government Hospital,



CMA(MD)No.937 of 2012

WEB

Karaikudi, where it was informed that he died. The wife and sons of the deceased filed a claim petition in MCOP.No.78 of 2009 on the file of the Motor Accident Claims Tribunal, Sub Court, Devakottai, claiming compensation of Rs.50,00,000/-. The appellant transport corporation filed counter affidavit disputing the manner of accident by contending that at the time of accident, the two wheeler was driven by the minor son of the deceased in violation of the licence conditions and that he drove the two wheeler in a rash and negligent manner at a great speed and hit the bus from behind. Without prejudice to the above, the appellant disputed the age, income, avocation of the deceased and the compensation claimed under various heads.

3. Before the Tribunal, on the side of the claimants, the son of the deceased was examined as PW1 and an eye-witness was examined as PW2 and 26 documents were marked as Exs.P1 to P26. On the side of the appellant, the driver of the bus was examined as RW1 and no document was marked on their side.

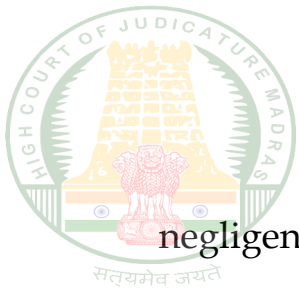


CMA(MD)No.937 of 2012

WEB

4. The Tribunal considering the oral and documentary evidence adduced on either side, held that the accident had occurred due to the rash and negligent driving of the driver of the transport corporation bus and consequently directed the appellant to pay compensation of Rs.32,28,552/- with 6% interest per annum from the date of claim petition till the date of deposit. Assailing the finding of the Tribunal regarding negligence and quantum of compensation, the appellant corporation has filed this appeal.

5. On the aspect of negligence, the learned counsel for the appellant would contend that the Motor Vehicles Act prohibits the minor to drive a vehicle in public place, but in this case, one of the claimants/PW1 who was the minor son of the deceased, drove the two wheeler in which the deceased seated as a pillion and therefore, the appellant is not liable to pay the compensation. He would further contend that a reading of the evidence of PW1 would show that he was studying 12th Standard at the time of accident and without attaining the age of majority, he took his father in a two wheeler as a pillion contrary to the licence conditions and also drove the two wheeler in a rash and



CMA(MD)No.937 of 2012

negligent manner, hit against the bus, fell down, and the wheel of the

bus ran over the legs of the deceased and the deceased succumbed to the

injuries. Further, the criminal case registered against the driver of the

bus also ended in acquittal by giving benefit of doubt and therefore, the

Tribunal has to independently deal with the evidence placed before it,

whereas, the Tribunal has erroneously fixed negligence on the driver of

the bus and fixed liability on the appellant corporation to pay the

compensation. Thus, the learned counsel would pray for setting aside

the finding regarding negligence.

6. On the quantum of compensation, the learned counsel for the appellant would contend that at the time of accident, the deceased was aged 55 years, however, the Tribunal applied 11 multiplier which is against the proposition of law. He would further submit that there is no proof for the additional income of Rs.5,000/- stated to have been earned by the deceased by publishing and selling the religious books authored by him and therefore, the award of Rs.6,00,000/- in this regard is liable to be set aside.

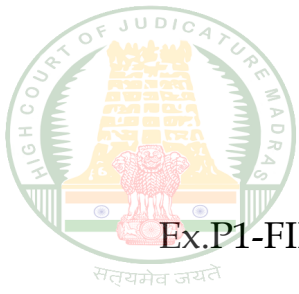


CMA(MD)No.937 of 2012

WEB COPY 7. Per contra, learned counsel for the respondents/claimants would contend that the Tribunal considering the fact that the claimants have proved the manner of accident through PW1 and PW2 and the documentary evidence, has rightly held that the driver of the bus was responsible for the accident and awarded compensation which does not warrant interference by this Court.

8. Heard both sides and perused the records.

9. Though the counsel for the appellant has contended that the accident had occurred due to the rash and negligent driving of the 3rd respondent/claimant and further he was a minor and not holding a valid driving licence, no materials have been placed before the Tribunal to prove the said contention. Except RW1, no other witness was examined and no document was marked. Whereas, the evidence of PW1 is supported by an eye witness-PW2 who has clearly deposed that the driver of the bus drove the same in a rash and negligent manner and hit the two wheeler. The evidence of PW1 and PW2 is corroborated by



CMA(MD)No.937 of 2012

Ex.P1-FIR and Ex.P22-charge sheet, whereas the evidence of RW1 is not

WEB COPY supported by any other witness nor documents. Therefore, the Tribunal relying upon the oral and documentary evidence adduced by the claimants, fixed liability on the appellant. This Court is not inclined to take a different view without any materials produced by the appellant that the accident had occurred only due to the rash and negligent driving of PW1. Therefore, there is no reason to interfere with the finding of the Tribunal regarding negligence and accordingly it is confirmed.

10. As far as the quantum of compensation is concerned, though the learned counsel for the appellant has contended that the deceased died in the accident at his age of 55 years with the left out service of 3 years and therefore, multiplier 3 ought to have been applied instead of 11, this Court is not inclined to accept the said contention since application of 11 multiplier is in consonance with the judgment of the Apex Court in *Sarla Verma v. Delhi Transport Corporation* reported in (2009) 6 SCC 121.



CMA(MD)No.937 of 2012

WEB COPY

11. As regards the next contention of the appellant that there is no proof for the additional income of Rs.5,000/- earned by the deceased by publishing and selling the religious books authored by him, perusal of record shows that except citing the religious books stated to have been written by the deceased as Exs.P10 to P20, no other evidence has been adduced for receipt of income by selling those books. Therefore, this Court is inclined to interfere with the award in that regard and accordingly, the award of Rs.6,00,000/- granted towards loss of additional income is hereby set aside. Except the above, the compensation awarded under other heads is not disputed and accordingly the same are confirmed.

12. Perusal of record also shows that the Tribunal has failed to award compensation under the head 'loss of consortium' to the 1st respondent/wife of the deceased and a sum of Rs.40,000/- is hereby awarded for the loss of consortium. As far as the loss of love and affection is concerned, the respondents 2 to 4/claimants are entitled to Rs.40,000/- each only totally Rs.1,20,000/- as against Rs.5,00,000/- awarded by the Tribunal.



CMA(MD)No.937 of 2012

WEB COPY 13. In the result, the total compensation is modified and apportioned as hereunder:

Loss of income	= Rs.18,28,552/-
Loss of additional income	= Rs. 3,00,000/-
Loss of love and affection	= Rs. 1,20,000/-
Loss of consortium to wife	= Rs. 40,000/-

Modified compensation	= Rs.22,88,552/-
(Less) Award of Tribunal	= Rs.32,28,552/-

Reduction	= Rs. 9,40,000/-

14. Accordingly, the respondents/claimants are entitled to modified compensation of Rs.22,88,552/- with 6% interest per annum from the date of claim petition till the date of deposit. The appellant is directed to deposit the modified compensation of Rs.22,88,552/- with 6% interest per annum from the date of claim petition till the date of deposit, less the amount already deposited, if any within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents 1 to 4/claimants are permitted to withdraw the modified compensation in the ratio apportioned by the Tribunal, by making application before the Tribunal.



CMA(MD)No.937 of 2012

WEB COPY 15. With the above modification, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

[P.V, J.] [L.V.G, J.]
25.09.2025

Index : Yes / No
Neutral Citation : Yes / No
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To

The Judge,
Motor Accident Claims Tribunal,
Sub Court,
Devakottai.



WEB COPY



CMA(MD)No.937 of 2012

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