



C.M.A.(MD)Nos.435 and 436 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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Reserved on : 06.06.2025

Pronounced on : 04.08.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.A.(MD)Nos.435 and 436 of 2025

and

C.M.P.(MD)Nos.7815 and 7816 of 2025

The Managing Director,
Tamil Nadu State Transport Corporation,
12. Ramakrishna Road, Salem.

... Appellant in both
the appeals

Vs.

1.Rajeswari

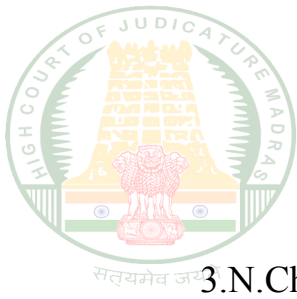
2.N.Chinnasamy

3.The Manager,
National Insurance Company Ltd.,
1st Floor, 1631-1/B, Salem Bhavani Main Road,
Sankagiri, Salem District.

... Respondents in
CMA(MD)No.
435 of 2025

1.Rajeswari

2.Palanisamy



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3.N.Chinnasamy

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4.The Manager,
National Insurance Company Ltd.,
1st Floor, 1631-1/B, Salem Bhavani Main Road,
Sankagiri, Salem District.

... Respondents in
CMA(MD)No.
436 of 2025

Common Prayer : These Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, to set aside the judgment and decree passed in M.C.O.P.Nos.562 and 564 of 2010 dated 28.02.2014 on the file of Motor Accident Claims Tribunal / Principal District Court, Karur.

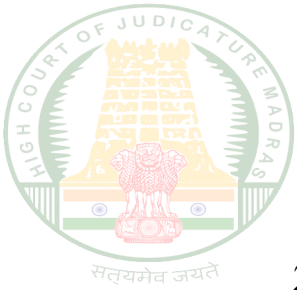
For Appellant : Mr.M.Prakash in both the appeals

For Respondents : Mr.K.Suresh Kumar
for R1 in CMA(MD)No.435 of 2025
for R1 & R2 in CMA(MD)No.436 of 2025

Mr.N.S.Ramakrishna Dass
for R3 in CMA(MD)No.435 of 2025
for R4 in CMA(MD)No.436 of 2025

COMMON JUDGMENT

These Civil Miscellaneous Appeals are directed against the common order passed in M.C.O.P.Nos.562 of 2010 and 564 of 2010 dated 28.02.2014 on the file of the Motor Accident Claims Tribunal / Principal District Court, Karur.



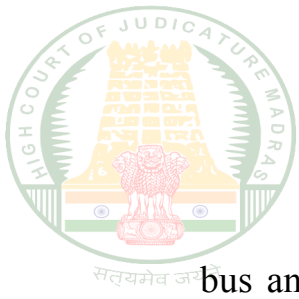
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2. For the sake of convenience and brevity, the parties herein after will be referred to as per their ranking in C.M.A.(MD)No.436 of 2025.

3. The appellant/Transport Corporation, who was mulcted with liability to pay 50% of the compensation of Rs.1,07,500/- with interest and costs to the first respondent/claimant in M.C.O.P.No.562 of 2010 for the disability suffered by her and Rs.3,25,000/- with interest and costs to the respondents 1 and 2/claimants in M.C.O.P.No.564 of 2010 for the death of their son Nithish @ Nithishkumar, consequent to an accident occurred on 28.09.2010, challenged the liability and also the quantum of compensation awarded at, by the Tribunal.

4. The case of the respondents 1 and 2 in C.M.A.(MD)No.436 of 2025 is that on 28.09.2010, the second respondent and his wife the first respondent and their son Nithish @ Nithishkumar were travelling in the appellant's bus bearing Registration No.TN-30-N-0637 and when the bus was proceeding near Aattukkaranur on Omalur – Tharamangalam main road, one lorry bearing Registration No.KA-01-AB-5997, which came in a opposite direction in a rash and negligent manner, had dashed against the



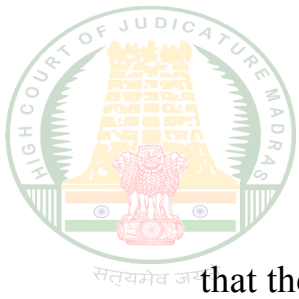
C.M.A.(MD)Nos.435 and 436 of 2025

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bus and as a result of which, the respondents 1 and 2 sustained injuries and their son Nithish @ Nithishkumar sustained head injuries and died on the way to hospital and that the respondents 1 and 2 were admitted in Sri Chellapa Hospital, Salem and subsequently, the first respondent was admitted in Ganga Hospital, Coimbatore.

5. The first respondent, by alleging that she was aged 32 years and was doing agricultural work and was earning Rs.6,000/- per month, has filed the claim petition in M.C.O.P.No.562 of 2010 claiming compensation for the disability sustained by her. The second respondent has also filed a claim petition in M.C.O.P.No.563 of 2010 claiming compensation for the disability sustained by him. Both the respondents 1 and 2, by alleging that their son Nithish @ Nithishkumar was aged 12 years and was studying 6th standard, have filed the claim petition in M.C.O.P.No.564 of 2010 claiming compensation for the death of their son. The three claim petitions came to be filed against the owner of the lorry and its insurer and the Transport Corporation.

6. The fourth respondent/insurance company has taken a defence



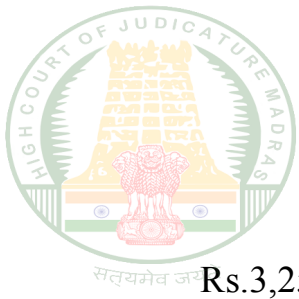
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that the accident occurred only due to the rash and negligent driving of the bus driver and lorry driver was no way responsible for the accident, whereas, the appellant has taken a stand that the accident occurred only due to the rash and negligent driving of the lorry driver.

7. During trial, the respondents 1 and 2/claimants have examined the first respondent/first claimant as P.W.1 and one Vasanthkumar as P.W.2 and exhibited 12 documents as Ex.P.1 to Ex.P.12. The third respondent/first respondent, owner of the vehicle remained *ex-parte*. The appellant/Transport Corporation and the fourth respondent/insurance company have adduced neither oral nor documentary evidence.

8. The learned trial Judge, upon considering the evidence, both oral and documentary and on hearing the arguments of both the sides, has passed the impugned common order dated 28.02.2014 holding that the bus driver and the lorry driver are equally liable for the accident and fixed the decree of negligence at 50 : 50 and directed both the appellant as well as the fourth respondent to pay compensation of Rs.1,07,500/- with interest and costs to the first respondent in M.C.O.P.No.562 of 2010 and



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Rs.3,25,000/- with interest and costs to the respondents 1 and 2 in M.C.O.P.No.564 of 2010 and the learned trial Judge dismissed the claim petition in M.C.O.P.No.563 of 2010. Aggrieved by the impugned common order, the Transport Corporation has preferred the present appeals.

9. When the matter was moved for admission, I have heard the learned counsel appearing for the appellant, the learned counsel appearing for the respondents 1 and 2 and the learned counsel appearing for the insurer.

10. The main contention of the appellant is that the lorry driver alone was responsible for the accident as he alone came in the opposite direction in a rash and negligent manner, that the respondents 1 and 2 and their son were sitting inside the bus and the bus driver was not at all responsible for the accident and that the learned trial Judge, without considering the evidence in proper perspective, has mulcted equal liability on both the drivers.

11. As rightly contended by the learned counsel appearing for the

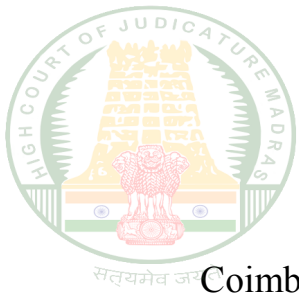


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respondents 1 and 2, neither the appellant nor the insurer had adduced any evidence before the Tribunal. The appellant has not chosen to examine the bus driver or the conductor of the bus. P.W.1 in her evidence would say that the accident had taken place in the middle of the road and the road runs with the width of passing of three vehicles at a time and that there was a mud road with a length of 4 or 5 feet on the left side of the bus. Considering the evidence available on records and in the absence of any contra evidence with regard to the negligence, the Tribunal has rightly come to a decision that the accident had taken place due to the rash and negligent driving of both the drivers and the fixed the negligence at 50:50.

12. Though the learned counsel appearing for the appellant would submit that they have also disputed the quantum, they have not raised any grounds objecting the quantum of compensation awarded at by the Tribunal. The Tribunal, considering the evidence of P.W.2-medical officer and the disability certificate issued, has accepted the disability fixed at 15% and awarded Rs.30,000/-as compensation for disability. It is evident from the records that the first respondent had taken inpatient treatment for two days in Sri Chellapa Hospital, Salem and 11 days at Ganga Hospital,



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Coimbatore. Considering the facts and circumstances, the Tribunal has rightly awarded Rs.20,000/- for pain and sufferings, Rs.10,000/- for transport and nutrition and also granted the medical expenses at Rs.47,444.40/- as per Ex.P.9-medical bills.

13. Now turning to the second claim petition, admittedly, the deceased was studying 6th standard and the Tribunal, taking note of the postmortem certificate, has fixed the age of the deceased as 12 years at the time of accident. Considering the above, the Tribunal has awarded lump sum amount of Rs.3,25,000/- as compensation.

14. As already pointed out, the appellant has not challenged the quantum of compensation awarded at by the Tribunal. In view of the above, there is nothing to interfere with the reasoned award made by the Tribunal. Consequently, this Court concludes that the appeals are devoid of merits and the same are liable to be dismissed.

15. Considering the other facts and circumstances, this Court, further decides that the parties are to be directed to bear their own costs.



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16. In the result, these Civil Miscellaneous Appeals stand dismissed.

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The appellant/Transport Corporation and the fourth respondent/Insurance Company in C.M.A.(MD)No.436 of 2025 are directed to deposit each 50% of the award amount with interest at 7.5% per annum from the date of petition till the date of realization to the credit of M.C.O.P.Nos.562 and 564 of 2010 on the file of the Motor Accident Claims Tribunal / Principal District Judge, Karur, after deducting the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent in C.M.A. (MD)No.435 of 2025 and the respondents 1 and 2 in C.M.A.(MD)No.436 of 2025 are permitted to withdraw the award amount with interest and costs as per the apportionment fixed by the Tribunal, less amount already withdrawn, if any, on due application before the Tribunal. Parties are directed to bear their own costs. Consequently, connected miscellaneous petitions are closed.

04.08.2025

NCC : Yes/No
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K.MURALI SHANKAR,J.

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To:

1. The Principal District Judge,
Motor Accident Claims Tribunal/
Karur.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

Pre-Delivery Common Judgment made in
C.M.A.(MD)Nos.435 and 436 of 2025
and
C.M.P.(MD)Nos.7815 and 7816 of 2025

Dated : 04.08.2025