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C.M.A.No.239 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2026

CORAM

THE HONOURABLE MR . JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

**C.M.A.No.239 of 2023
& C.M.P.No.1640 of 2023**

Vishwas Krishna

... Appellant

Versus

1. V.Leelavathi @ Neelavathi

2. Minor V.Thilothana

3. Minor V.Subash

Minor Petitioners 2 and 3 are represented by
their Mother / natural guardian the first petitioner

4. M.Vinayagam

5. V.Kalavathi

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 26.09.2022 made in M.C.O.P.No.98 of 2017 on the file of Motor Accident Claims Tribunal, I Additional District and Sessions Judge, Vellore.

For Appellant : Mr.F.Terry Chella Raja

For Respondents : Mr.R.Rajarajan
for R1 to R5



JUDGMENT

(Judgment of the Court was made by **N.SATHISH KUMAR, J.**)

Challenging the award passed by the Tribunal, the appellant, who is the owner of the offending vehicle, has filed the present appeal fixing 75% liability on the part of the Appellant.

2. The parties are referred to by their respective ranks before the Tribunal.

3. The brief facts of the case is as follows:

On 15.07.2016, at about 09.00pm, when the deceased, who was aged about 32 years, was crossing Chennai – Bangalore National Highways from South to North near Mottur Bus Stop, a car bearing Registration No.KA 04 MN 3383 owned by the appellant herein, came in a rash and negligent manner from East to West and dashed against him due to which the deceased sustained grievous injuries and died on the spot. The wife, children and parents of the deceased filed the claim petition. Accordingly to the claimants, the deceased was earning about Rs.25,000/- per month.

3. Before the Tribunal, on the side of the claimants, PWs 1 and 2 were examined and Exs.P1 to P9 were marked. On the side of the respondent, RW1 was examined and no document was marked.



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4. The Tribunal, considering the evidence of PW2, who is the eyewitness has found that though the deceased crossed the highway, the respondent drove the vehicle in a rash and negligent manner and dashed against him and therefore held that though the deceased contributed to certain extent, fixed 75% on the respondent and 25% on the deceased. The negligent aspect has been fixed on the basis of evidence of eye witness (PW2). Thereafter, considering age of the deceased, the Tribunal fixed the notional income at Rs.12,000/- and added 40% towards future prospects and awarded the compensation as follows:

Loss of Income	:	Rs.24,19,200.00
Spouse Consortium for first petitioner	:	Rs. 44,000.00
Filial Consortium for Petitioners 2 & 3	:	Rs. 88,000.00
Parental Consortitum for Petitioners 4 and 5	:	Rs. 88,000.00
Transport Expenses	:	Rs. 5,000.00
Loss of Estates	:	Rs. 16,500.00
Funeral Expenses	:	Rs. 16,500.00

Rs. 26,77,200.00



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5. The main contention of the appellant/respondent is that the deceased was crossing the Highway in a drunken mood and he suddenly crossed the road and therefore, the appellant/respondent cannot be fastened with the liability.

6. We have perused the entire evidence, particularly the evidence of eye witness, who has categorically deposed that while the deceased was returning from the shop, the offending car came in a rash and negligent manner and dashed against the deceased. The evidence of PW2 has not been controverted and no suggestion was put to PW2 in the cross examination. According to RW1, the deceased was under the influence of alcohol and invited the accident, but the said statement found to be false as postmortem certificate, which was marked as Ex.P2 does not indicate that he was under the influence of alcohol. In the absence of any evidence, mere pleading will not suffice to hold that the deceased was under the influence of alcohol and there was contributory negligence.

7. No doubt, in the Highways, normally the vehicles used to ply at a reasonable speed and pedestrians are not supposed to cross the Highways,



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but the fact remains that the accident took place in a busy area where the shops are situated and the evidence also indicate that the accident took place just near the bus stand. Therefore, in the area where the shops and bus stop are situated, there will be chance of people crossing the roads. Merely because the road is a Highway, it cannot be said that the vehicle can ply at high speed without taking proper care. In such view of the matter, considering the nature and place of accident, we are of the view that the Tribunal fixing 75% negligence on the part of the appellant/respondent cannot be found fault with. Though the quantum fixed by the Tribunal is not under challenge before us, considering the age of the deceased, we are of the view that quantum fixed by the trial Court does not require any interference. There is no merit in the appeal and the same is liable to be dismissed.

Accordingly, this Civil Miscellaneous Appeal is dismissed. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

[N.S.K.,J.] [R.S.V.,J.]
05.02.2026

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N.SATHISH KUMAR, J.,
AND
R. SAKTHIVEL, J.,

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To

The Motor Accident Claims Tribunal
I Additional District and Sessions Judge
Vellore

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