



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2026

CORAM

**THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**CMA No.2429 of 2022
and
CMP No.18988 of 2022**

The United India Insurance Co. Ltd,
Office No.11/2, K.T.Complex,
New Scheme Road, Pollachi - 642 002.

Appellant(s)

Vs

1. Raga
- 2.Minor.Srivishnu
- 3.Tmt.Deeparani
- 4.Pushpathal,
- 5.M.Karuppusamy
- 6.The Managing Director
Tamil Nadu State Transport
Corporation Limited, No.37,
Mettupaalaiyam Road, Coimbatore.
- 7.Chiranjeevi Wind Energy Limited,
No.26A, Kamaraj Road,
Magalingapuram Post,
Pollachi - 642 002.

Respondent(s)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the decree and judgment passed in MCOP.No.153 of 2012 dated 31.10.2019 on the file of the Motor Accident Claims Tribunal (Subordinate Judge) Pollachi and to dismiss the above claim and allow the CMA.



For Appellant (s): Mr.J.Chandran
For Respondent(s): Mr.T.Ganesan for R1 to R4
Mr.M.Murali Vinodh for R6
R5 & R7 – No appearance

JUDGMENT

(Judgment of the Court was made by C.V.Karthikeyan J.)

The fourth respondent in MCOP No.153 of 2012, on the file of the Motor Accident Claims Tribunal, Sub Court, Pollachi, aggrieved by the judgment dated 31.10.2019 is the appellant herein.

2.MCOP No.153 of 2012 had been filed by the respondents 1 to 4 herein seeking compensation for the death of Nallathambi who was the father of the first and second respondents herein, husband of the third respondent and son of the fourth respondent on a road accident which took place on 04.05.2010 and subsequently died on 21.02.2012.

3.It had been stated in the claim petition that the accident had occurred at Gomangalam. The deceased Nallathambi was driving a Bolero Jeep bearing registration No.TN 41 S 9119 from Pollachi to Udumalpet Road on the left side of the road. When he was approaching Jayabal Workshop at Gomangalam, a bus bearing registration No.TN 38 N 0714 came from Udumalpet to Pollachi driven by the driver in a rash and negligent manner dashed against the Bolero Jeep. Owing to the sudden impact of the accident, the valuable components of



the said Jeep were completely damaged and it was dragged on the right side of the road and pulled to the right of the road. The deceased Nallathambi suffered grievous injuries on the head, chest and stomach with fracture. The rib bones were broken into pieces and nailed into the lungs. He was bleeding from the head and other parts of the body. He became unconscious. He was taken to hospital and referred to Sri Ramakrishna Hospital, Coimbatore. He underwent several operations, which were as follows:

Head Injury – Brainstem Contusion

Multiple hemorrhagic contusion

Traumatic Subarachnoid hemorrhage

Fracture L.T.Scapula

Fracture Mandible – LT. Parasymphysis and L.T.Condyle

Collapse of L.T.Lower Lobe with Pleural fluid collection and

LT.Hemothorax – ICD Done.

However, he continued to be in Coma stage and died on 21.02.2012. Seeking compensation for the said injuries suffered leading to death of Nallathambi, the claim petition had been filed.

4.A counter affidavit had been filed on behalf of the appellant herein, who was the fourth respondent therein, questioning the manner in which accident was stated to have occurred and specifically stated that Nallathambi was driving the Bolero Jeep also in a rash and negligent manner and he had also contributed



to the accident and therefore, he has to be considered as Tortfeasor. It was therefore contended that the Insurance Company, namely, the appellant cannot be held responsible to compensate either the injuries suffered or for subsequent death of Nallathambi. It was also contended that the Transport Corporation bus driver had driven equally in a negligent manner and therefore, it was claimed that the compensation should also be granted by the Transport Corporation. In effect, the appellant herein/Insurance Company denied any liability for any compensation payable for the death of Nallathambi to the claimants.

5.The Tribunal by its judgment dated 31.10.2019 refused to accept the case of the appellant herein that the deceased had contributed to the accident and directed that the Insurance Company must bear the entire compensation amount. It was further held that since the vehicle was insured, the appellant herein should bear the compensation.

6.The appellant did not question the quantum of compensation, but only questioned their liability. It is the contention of the learned counsel for the appellant that for the negligence of the deceased/driver of the Jeep, the Insurance Company cannot be made liable for the compensation amount. It was also contended that the accident occurred owing to the negligence of the Transport Corporation bus driver also, and therefore, the Transport Corporation should be mulcted with the contributory negligence to pay the compensation



amount. In this connection it was contended that the compensation awarded by the Tribunal should be apportioned equally in the ratio of 50% to the bus driver and also to the Transport Corporation.

7. We also heard the learned counsel for the claimants/respondents 1 to 4 and also the learned counsel for the fifth respondent /Transport Corporation.

8. The learned counsel for the Transport Corporation argued that the bus was not the cause of the accident and the entire cause of the accident was due to the manner in which the vehicle was driven. However, a perusal of the rough sketch Ex.P15 and also a perusal of the evidence adduced show that the Bolero Jeep was hit with much force causing damage to the front portion of the vehicle and thrown away from the road. This indicated rash and negligent driving in high speed by both vehicles. It cannot be stated that the bus alone was responsible for the accident. We would therefore hold that the accident had occurred owing to the contributory negligence on the part of the driver of the bus to the extent of 50%.

9. We would modify the Award by stating that the Transport Corporation namely, the fifth respondent is liable to pay the 50% of the compensation amount. The appellant herein would be absolved from payment of any compensation, however, we would fall back to the provisions of the Employees



Compensation Act, 1923 (formerly known as Workmen's Compensation Act), wherein, since there was admittedly insurance coverage for the death of Nallathambi, fixed compensation of Rs.6,70,160/- must be paid by the appellant.

10. During the argument, we had a discussion with the learned counsel for the appellant and we had questioned as to whether we could take recourse to the provisions of the Employees Compensation Act. The learned counsel appellant stated that a calculation method is available under the Employees Compensation Act, but in law, the claimants can seek compensation only either under the Motor Vehicles Act or under the Employees Compensation Act and not under both enactments. But since we have absolved the Insurance Company of any liability under the Motor Vehicles Act and fixed 50% of the liability on the Transport Corporation, to enable the claimants to atleast receive some further benefit, we deeply appreciate the stand taken by the learned counsel for the appellant who stated that he would voluntarily persuade the appellant to grant compensation as payable under the Employees Compensation Act to meet the loss of income component. Accordingly, in accordance with the calculation under the Employees Compensation Act, the following would be the compensation payable now by the appellant/Insurance Company.

50% of the Monthly Income – Rs.4,000/- (Rs.8,000/- x 50%)

Relevant Factor for the deceased who was aged 46 years – 166.29



WEB COPY



Loss of income :: Rs.6,65,160/-

(Rs.4,000 x 166.29)

Add: Funeral Expenses :: Rs. 5,000/-

Total :: Rs.6,70,160/-

We again reiterate that this compensation is granted as a one time measure to alleviate the sufferings of the claimants.

11.The Tribunal had granted the following compensation:

(i) Loss of dependency :: Rs.13,97,292/-

(ii) Medical Bills :: Rs.21,09,467/-

(iii) Loss of Consortium :: Rs. 40,000/-

(iv) Love & Affection :: Rs. 15,000/-

(v) Funeral Expenses :: Rs. 15,000/-

Total :: Rs.35,76,759/-

12.We would grant the compensation in the following manner:

Amount to be paid by the appellant :: Rs. 6,70,160/-

Amount to be paid by the Transport Corporation :: Rs.17,88,379.50/-

(Rs.35,76,759 x 50%)

Total :: Rs.24,58,539.50/-



13. In the result, the Civil Miscellaneous Appeal is partly allowed. The compensation of **Rs.35,76,759/-** awarded by the Tribunal is hereby reduced to **Rs.24,58,539.50/-**. The appellant Insurance Company and the Transport Corporation are directed to deposit the reduced compensation of Rs.6,70,160/- and Rs.17,88,379.50/- respectively, less the amount already deposited, together with interest at 7.5% p.a. from the date of petition till the date of deposit within a period of six (6) weeks from the date of receipt of this judgment. On such deposit being made, claimants are permitted to withdraw their respective shares, as apportioned by Tribunal, along with accrued interest and costs, less the amount, if any already withdrawn by them, by filing necessary application before the Tribunal. Any excess amount deposited by the appellant Insurance Company should be refunded by the Tribunal. No costs. Connected miscellaneous petition is also closed.

(C.V.K.,J.) (K.R.S.,J.)
25-03-2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
sli



To

1.The Managing Director,
The Tamil Nadu State Transport Corporation Limited,
No.37, Mettupaalaiyam Road, Coimbatore.

2.The Subordinate Judge,
The Motor Accident Claims Tribunal Pollachi.



WEB COPY

10/10

CMA No. 2429 of 2



**C.V.KARTHIKEYAN, J.
AND
K.RAJASEKAR, J.**

sli

CMA No. 2429 of 2022

25-03-2026