



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	12.12.2025
<i>Pronounced on</i>	03.02.2026

CORAM

THE HONOURABLE MRS. JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A. No.237 of 2025
and C.M.P. No.1742 of 2025

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
No.3/137, Salamedu, Valuthareddy & Post,
Villupuram-605 602

..Appellant

.vs.

1.Thilagavathi
2.Minor Dharshini
3.Minor Tharani
Minors represented their mother 1st petitioner,
North Street, Kovilur, Sirumangalam Post,
Thittakudi Taluk.

.Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, against the award dated 22.02.2022 made in M.C.O.P.No.02 of 2021 on the file of the Motor Accident Claims Tribunal, III Additional District and Sessions Court, Cuddalore, at Virudhachalam.

For Appellant : Mr. C.R.Suresh Kumar and
MR.T.Chandrasekaran

For Respondents : Mr.S. Udayakumar
for R1 to R3



JUDGMENT

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This Civil Miscellaneous Appeal is preferred by the Transport Corporation aggrieved by the award in M.C.O.P.No.2 of 2021, on the file of Motor Accident Claims Tribunal, III Additional District and Sessions Court, Cuddalore, at Virudhachalam dated 22.02.2022, challenging the award of Rs.17,78,600/- as compensation for the death of one Arunachalam.

2.The respondents as claimants, filed the above claim petition on the ground that on 15.12.2020, while the deceased was riding a two wheeler, towards Rooba Narayana Nallur from Kovilur Village, at about 8.45 p.m the driver of the bus insured with the appellant, bearing Registration No. TN 21 N 1161 stopped the vehicle in the middle of the road without any signal, against which the motor cycle of the deceased dashed and the alleged accident occurred. The deceased Arunachalam succumbed to the injuries sustained by him on 19.12.2020. The claimants as legal heirs of the deceased Arunachalam have preferred the claim petition, claiming a sum of Rs.40,00,000/- as compensation.

3.The appellant / Corporation resisted the claim of the deceased on the ground that while bus was parked in the Periya Vadavadi bus stop for the passengers, the rider of the two wheeler came in a rash and negligent manner



and dashed against the bus and caused the accident. Therefore, the alleged accident occurred due to the negligent act of the deceased. Hence, the appellant/ Corporation is not liable to pay any compensation to the claimants. Hence, prayed for dismissal of the petition.

4.The learned Tribunal, based on the materials on record concluded that the alleged accident took place due to the negligent act of the driver of the bus and awarded a sum of Rs.17,78,600/- as compensation to the claimants. Aggrieved by this, the present appeal is preferred.

5.The appeal is challenged on two grounds namely negligence and quantum. According to the appellant/Corporation the alleged accident was not due to the negligent act of the driver of the Corporation bus. The rider of the motor cycle did not possess any driving licence and was not wearing helmet and at the time of accident. Since the deceased was a tortfeasor and a charge was referred, against the deceased, the Tribunal ought to have deducted 20 to 25 % for contributory negligence. It is further contended that the compensation awarded by the Tribunal is excessive and without considering the degree of negligence involved, thus making the award unsustainable. To support his contention, he has relied upon the decision cases of *Manager, Shriram General Insurance Co. Ltd., Vs. A. Thangaraj* reported in **2025(1) TN MAC 700 (DB)**



6. On the other hand, the learned counsel appearing for the respondents/claimants would submit that the alleged accident had occurred only due to the negligent act of the driver of the Corporation bus. Parking the bus in busy road in night hours itself amounts to negligence. He would further submit that though the FIR was referred to as 'Mistake of Fact' by Police, the conclusion of police cannot be substituted for that of the Tribunal. The Tribunal has rightly held that the bus driver was negligent and caused the accident. He would further submit that the contents of FIR cannot be basis for fixing negligent. Hence, the compensation awarded by the Tribunal is just and reasonable which warrants any interference by this Court. To support his contention, he has relied upon the decision cases of *The Divisional Manager, United India Insurance Co. Ltd., vs. Jaquiline Mary and others* reported in 2024(1) TN MAC 731 (DB), *New India Assurance Co. Ltd., vs. Sudha* reported in 2022 (2) TN MAC 708 (DB) and *The Managing Director, Tamil Nadu State Transport Corporation, Ltd., vs. S.Yobu* reported in 2014 (1) TN MAC 295 (DB).

7. Heard on both sides and records perused.



8. From the materials on record, it is seen that the motor bike of the deceased dashed against the Corporation bus which was parked in night hours without any parking indications. The evidence of eyewitness support the case of the claimants. No doubt, accident could have been averted, if the deceased rode the bike with due care and caution. But, there was no conclusive evidence that bus was parked with proper sign board or parking indication. Parking the bus in night hours on the road side itself amounts to negligence. As rightly pointed out by the learned counsel for the respondents/claimants, even though the FIR was referred to as a "Mistake of Fact" by Police, the conclusion of Police cannot be substituted for that of the Tribunal. In such circumstances, Tribunal has rightly held that the driver of the bus was negligent and was responsible for the accident. However, in view of the fact that the claimants failed to establish that the deceased had a valid driving licence and was wearing helmet at the time of the accident, the Tribunal ought to have fixed contributory negligence on the part of the deceased also. Hence, this Court deems it fit to fix 15% contributory negligence on part of the deceased two wheeler rider.

9. On perusing the impugned order, it is found that the Tribunal has awarded a 'just compensation' considering the age, avocation and plight of the claimants due to the death of the breadwinner of the family, which warrants any interference by this Court.



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10. Accordingly, after deducting 15% on the amount awarded by the Tribunal the respondents / claimants are entitled to get a sum of Rs.15,11,810/- (Rs.17,78,600 x15%).

11. The amounts awarded under the different heads are detailed hereunder:

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court (Rs.)</i>
1.	Loss of dependency	17,13,600
2.	Loss of consortium	40,000/-
3.	Funeral expenses	15,000/-
4.	Transportation charges	10,000/-
	Total	17,78,600/-
	Less 15% contributory negligence	2,66,790/-
	Compensation amount	15,11,810/-

This amount shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.



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11. In the result,

i. The Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

ii. The compensation awarded by the Tribunal is reduced from Rs.17,78,600/- to 15,11,810/-.

iii. The appellant/Transport Corporation, is directed to deposit the compensation amount i.e., Rs.15,11,810/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.02 of 2021 on the file of the Motor Accident Claims Tribunal, Vridachalam, within a period of four weeks from the date of receipt of a copy of this order. The appellant/Transport Corporation is at liberty to withdraw the extra amount, deposited by them, over and above the compensation awarded by this Court. The ratio of apportionment made by the Tribunal shall be kept intact.

iv. On such deposit being made, the 1st respondent/claimant is at liberty to withdraw her share as per the apportionment made by the Tribunal after filing a proper petition for withdrawal. Since the respondents 2 &



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3/claimants are minors, their shares, as per the apportionment made by the Tribunal, shall be deposited in a fixed deposit in any one of the Nationalised banks until they attain majority.

03.02.2026

Index : Yes
Speaking Order
Neutral citation : Yes
vsn

To

- 1.The II Additional District and Sessions Court,
Motor Accident Claims Tribunal,
Cuddalore, at Virudhachalam
- 2.The Section Officer,
V.R.Section, High Court, Madras.



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K.GOVINDARAJAN THILAKAVADI, J.

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