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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2026

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THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

C.M.A.Nos.1827 of 2026 & 2922 of 2025
and C.M.P No.14442 of 2026

CMA No.1827 of 2026

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
No.12, Ramakrishna Road, Salem – 7. ... Appellant

Vs.

1.N.Nithya
2.K.Balasundar
3.Minor. K.Thanukesvaaran
(Minor 3rd respondent represented by
the next friend mother first respondent)
4.R.Bakiyam ...Respondents

CMA No.2922 of 2025

1.N.Nithya
2.K.Balasundar
3.Minor. K.Thanukesvaaran
(Minor 3rd respondent represented by
the next friend
4.R.Bakiyam ... Appellants

Vs.

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The Managing Director,
Tamil Nadu State Transport Corporation Limited,
No.12, Ramakrishna Road, Salem – 7. ...Respondent

COMMON PRAYER : Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.10.2023 made in MCOP No.52 of 2022 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Attur.

Appearance in CMA No.1827 of 2026

For Appellant : Mr.D.Nitin

For Respondents : Mr.R.Nalliyappan

Appearance in CMA No.2922 of 2025

For Appellants : Mr.R.Nalliyappan

For Respondent : Mr.D.Nitin

COMMON JUDGMENT

Unsuccessful Transport Corporation has preferred an appeal in CMA No.1827 of 2026 challenging the quantum of compensation arrived by the Tribunal. Unsuccessful claimants have preferred an appeal in CMA No.2922 of 2025 challenging the fixation of 10% negligence on the part of the deceased and also seeking enhancement of compensation.

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2. The claim petition has been filed under Section 166 of the Motor Vehicles Act, for the death of one Kesavan, who died in a road accident that took place on 25.02.2022. The first claimant is the wife ; claimants 2 & 3 are sons and fourth claimant is the mother of the deceased Kesavan.

3. According to the claimants, on 25.02.2022, the deceased was riding the Bajaj Platina motorcycle bearing Registration No TN 30 Q 4959 from Narasingapuram to go to Hotel Saravanabhavan situated at Attur and he was proceeding on the left side of the road from west towards east and it was proceeding in front of Royal Enfield showroom near Udayarpalayam at about 12.20 pm. At that time, the driver of the Tamil Nadu State Transport Corporation bus bearing Registration No TN 30 N 1949 was driving rashly and negligently and it was coming from east towards west on the wrong side of the road and the same dashed against the deceased motorcycle. Due to the said impact, the deceased was thrown out from the motorcycle and he sustained grievous injuries all over the body. Immediately, he was taken to Government Hospital, Attur and thereafter, he was referred to Salem Government Mohan Kumaramangalam Medical College Hospital, Salem.

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For further treatment, he was taken to Ganga Hospital, Coimbatore. However, he succumbed to injuries on the same day.

4. The respondent / Transport Corporation has filed counter statement wherein they denied the manner of accident. It is also stated that the deceased had driven the motorcycle in a rash and negligent manner without wearing helmet and not having valid driving license and lost his balance and dashed against the TNSTC bus. Therefore, the respondent driver is in no way responsible for the accident.

5. Before the Tribunal, on behalf of the claimants, the first claimant was examined herself as PW1, one Senthilvelavan, an eyewitness was examined as PW2 and Ex.P1 to Ex.P17 were marked. On behalf of the respondent / Transport Corporation, RW1 was examined and Ex.R1 was marked.

6. Upon appreciation of evidence adduced on either side, the Tribunal came to a conclusion that the accident had occurred only due to rash and

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negligent act of the driver of the bus. The Tribunal also finds that the deceased was driven the motorcycle without valid driving license at the time of accident and therefore, fixed 10% negligence on the part of the deceased.

7. With regard to quantum of compensation, the Tribunal fixed a sum of Rs.15,000/- as notional monthly income of the deceased, added 10% towards future prospects of the deceased, deducted 1/4th income of the deceased towards personal and living expenses of the deceased, applied multiplier '13' and awarded a sum of Rs.19,30,500/- as compensation under the head Loss of dependency. The Tribunal also awarded compensation under various heads as hereunder :

S.No	***Heads***	***Amount awarded by the Tribunal***
1.	Loss of dependency	19,30,500/-
2.	Loss of estate	16,500/-
3.	Loss of consortium	44,000/-
4.	Funeral expenses	16,500/-
5.	Loss of filial consortium	40,000/-
Total **Less : 10% contributory negligence**		**Rs.20,47,500/-** **(-) Rs.2,04,750/-** **Rs.18,42,750/-**

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8. Aggrieved over the same, the Transport Corporation has preferred an appeal in CMA No.1827 of 2026 challenging the quantum of compensation arrived by the Tribunal, particularly challenging the adoption of multiplier '13' ; the claimants have preferred an appeal in CMA No.2922 of 2025 challenging the fixation of 10% negligence on the part of the deceased and also seeking enhancement of compensation.

9. The learned counsel for the appellant / Transport Corporation would submit that in the absence of proof of monthly income, the Tribunal ought not to have fixed Rs.15,000/- as notional monthly income of the deceased. The Tribunal erred in adopting the multiplier '13' instead the Tribunal ought to have adopted multiplier '11'. The compensation awarded by the Tribunal under other heads appears to be reasonable and proper which does not require any interference. The learned counsel further would submit that upon considering the fact that the deceased was not having valid and effective driving license at the time of accident, the Tribunal has rightly fixed 10% negligence on the part of the deceased.

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10. *Per contra* learned counsel for the respondents/claimants would submit that the Tribunal failed to consider that at the time of accident, the deceased was the proprietor of Hotel Sri Saravana Bhavan and earning monthly income of Rs.50,000/- and the same was substantiated with sufficient evidence, under such circumstances it is not correct to hold that the deceased was drawing income of Rs.15,000/- is not sustainable in law. The Tribunal failed to consider the fact that the accident took place in the year 2022 and at the time of accident, the deceased was aged about 53 years and therefore, fixing Rs.15,000/- as notional monthly income of the claimant is not proper. Further would submit that the Tribunal failed to award compensation under the head loss of love and affection and transportation charges. To strength his contentions, he relied upon the judgment of the Hon'ble Supreme Court in the case of ***Sri Krishna Kanta Singh vs The Oriental Insurance Company Limited and Others*** reported in ***2025 INSC 394***

11. Heard learned counsel for the appellant, learned counsel for the respondents and perused the materials available on record.

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12. There is no dispute with regard to the manner of accident. The only grievance of the claimants is that fixing 10% negligence on the part of the deceased on the ground that the deceased not possessing valid and effective driving license at the time of accident is unsustainable in law. It is relevant note that the claimants have not placed the copy of the driving license of the deceased. To substantiate their claim, the claimants have filed valid driving license of the deceased at the time of accident. PW2 who is an eyewitness to the accident had categorically deposed that at the time of accident the deceased was wearing helmet. It is relevant to note that when the Transport Corporation has taken a specific plea that the deceased was not having valid and effective driving license to drive the vehicle at the time of accident, burden is cast upon any official from the concern Regional Transport Officer to establish the fact that the deceased was not having valid driving license at the time of accident. However, considering the fact that on the side of the claimants a copy of the driving license has not been marked as documents. The Tribunal finds that at the time of accident the deceased was not holding valid and effective driving license to drive the vehicle and also applied the ratio laid down by this Court in ***Kulavani vs Kathirvelan***

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reported in ***2021(SCC) online (Mad.) 2232*** fixed 10% negligence on the part of the deceased. This Court is of the considered view that at the time of accident, the deceased was aged about 53 years and he was a proprietor of the hotel, namely, Sri Saravana Bhavan situated at Attur and drove the vehicle without valid and effective driving license is not proper and fixation of 10% of negligence on the part of the deceased requires interference and 5% negligence is fixed on the deceased.

13. With regard to quantum of compensation, PW1 deposed that the deceased was a proprietor of Sri Saravana Bhavan hotel situated at Attur and was earning a sum of Rs.50,000/- per month. She also relied upon Ex.P12 / copy of the partnership deed of the deceased, which is not a registered document. The Tribunal considering the income tax returns standing in the name of the deceased, wherein total annual income is Rs.3,63,175/- and also mentioned Rs.3,98,000/-. A perusal of Ex.P13, Ex.P14 and Ex.P15 wherein the source of income is mentioned share of copy of interest on capital and also mentioned salary from firm and also mentioned other income. This Court is of the considered view that in the absence of proof of monthly

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income of the deceased, the income tax return relied upon by the claimants wherein also mentioned about the share profit and also other income mentioned, in such circumstances, this Court is of the considered opinion that considering the age of the deceased at the time of accident was 53 years and the accident took place in the year 2022, fixation of Rs.15,000/- as notional monthly income of the deceased appears to be meagre and this Court is inclined to fix a sum of Rs.20,000/- as notional monthly income of the deceased, which would meed the ends of justice. It is relevant to note that there is no dispute with regard to age of the deceased at the time of accident. By applying the ratio laid down by the Hon'ble Supreme Court in ***Smt. Sarala Varma and Others vs Delhi Transport Corporation and another*** reported in ***2009(2) TN MAC 1 (SC)*** the correct multiplier is '11' whereas the Tribunal applying multiplier '13' is not proper. The Tribunal considering the number of dependents on the income of the deceased, deducted 1/4th towards personal and living expenses of the deceased which is proper. The amount awarded by the Tribunal under the head loss of dependency would be modified as hereunder :

Calculation :

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Notional income	: Rs.20,000/-
Future prospects	: 10% (Rs.20,000/- + 10% = 22,000/-)
Multiplier	: 11 Rs.22,000/- x 12 x 11 x 3/4 = Rs.21,78,000/-

The compensation awarded by the Tribunal under the head loss of consortium is meagre and therefore, this Court is inclined to enhance the same to Rs.1,76,000/- (the claimants are entitled to Rs.44,000/- each x 4) towards loss of consortium. The Tribunal has not awarded compensation under the head transportation charges and this Court is inclined to grant a sum of Rs.10,000/- towards transportation charges. The compensation awarded by the Tribunal under other heads are appears to be reasonable and proper which does not require any interference.

14. The following tabular column would show the enhanced amount awarded by this Court under various heads.

S.No	***Heads***	***Amount awarded by this Court***
1.	Loss of dependency	21,78,000/-

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S.No	*Heads*	*Amount awarded by this Court*
2.	Loss of estate	16,500/-
3.	Loss of consortium (Rs.44,000/- x 4)	1,76,000/-
4.	Funeral expenses	16,500/-
5.	Loss of filial consortium	40,000/-
6.	Transportation charges	10,000/-
Total **Less : 5% contributory negligence**		**Rs.24,37,000/-** **(-) Rs.1,21,850/-** **Rs.23,15,150/-**

15. Thus, the compensation awarded by the Tribunal is enhanced to **Rs.23,15,150 /-.** This amount shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

16. In the result,

i. The Civil Miscellaneous Appeals are partly allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

ii. The compensation awarded by the Tribunal is enhanced to **Rs.23,15,150/-**

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iii. The appellants / claimants are directed to pay the court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after the receipt of Court fee.

iv. The respondent/Transport Corporation is directed to deposit the enhanced compensation amount of **Rs.23,15,150/-** (less the amount already deposited) 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.52 of 2022 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Attur, within a period of six weeks from the date of receipt of a copy of this order/uploading of this order. The claimants are not entitled for any interest on the enhanced compensation for the delay period, if any.

v. On such deposit being made, the claimants are at liberty to withdraw the same on filing appropriate application before the Tribunal. The ratio of apportionment made by the Tribunal shall be kept intact.

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vi. The manner and mode of disbursement of compensation shall be as per the order of the Tribunal.

28.10.2026

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
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To

1. The Motor Accident Claims Tribunal
Subordinate Court, Attur.

2.The Section Officer, VR Section, High Court, Madras.

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M.JOTHIRAMAN, J.

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