



WEB COPY

AS No. 72 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :	17.03.2026
PRONOUNCED ON :	20.04.2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

AS No. 72 of 2017

AND

CROS.OBJ NO. 69 of 2017

and

C.M.P.Nos.9239 & 9240 of 2018

and CMP NO. 3033 of 2017

A.S.No.72 of 2017

1. State of Tamilnadu
Rep.By The Collector of Cuddalore,
Collectorate Building, Cuddalore.
2. The Superintendent of Police
Superintendent of Police Building, Cuddalore.

..Appellant(s)

Vs

1. Sivagnanm (Major)
2. Abirami(Major)
3. Saraswathi
4. Rathinambal
(R1 & R2 declared as Major and
discharge the guardianship from Arumugam
vide Court order dated 03.03.2026 made in
C.M.P.No.4360/2026 in A.S.No.72/2017)



..Respondent(s)

Prayer: Appeal Suit filed under Order 41 Read with Section 96 of C.P.C., praying to set aside the judgment and decree dated 07.12.2016 made O.S.95 of 2011 on the file of Principal District Munsif, Cuddalore and pass such further or other orders as this Honourable Court.

For Appellant(s): Mr.M.Murali
Government Advocate

For Respondent(s): Mr.A.Muthukumar
(For R1 & R2)

CROS.OBJ No. 69 of 2017

1. Sivagnanam (Major)

2. Abirami (Major)

(1st and 2nd Cross Objectors are declared as Major and discharge the guardianship from Arumugam vide Court order dated 03.03.2026 made in C.M.P.No.4360/2026 in Cross Objection No.69/2017)

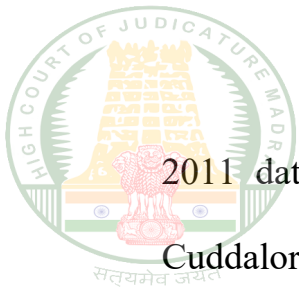
..Cross objectors(s)

Vs

1. State Of Tamil Nadu
Rep By The Collector Of Cuddalore,
Collectorate Building, Cuddalore.
2. The Supeintendent Of Police
Superintendent Of Police Building, Cuddalore
3. Saraswathi
4. Rathinambal

..Respondent(s)

Prayer: Cross Objection filed under Order 41 Rule 22 of C.P.C., praying to set aside the findings & disallowed portion of the decree passed in O.S.No.95 of



2011 dated 7.12.2016 on the file of the Court of Principal District Judge, Cuddalore by allowing this memorandum of Cross Objections.

WEB COPY

For Cross Objectors(s): Mr.A.Muthukumar
For Respondent(s): Mr.M.Murali
Government Advocate
(For RR1 & R2)
Mr.T.Thiyagarajan
(For RR3 & R4)

COMMON JUDGMENT

The appeal suit has been filed to set aside the judgment and decree dated 07.12.2016 made O.S.95 of 2011 on the file of Principal District Munsif, Cuddalore and the cross objection has been filed to set aside the findings and disallowed portion of the decree passed in O.S.No.95 of 2011 dated 7.12.2016 on the file of the Court of Principal District Judge, Cuddalore.

2. Heard Mr.M.Murali, learned Government Advocate appearing for the appellant and Mr.A.Muthukumar, learned counsel for respondents 1 and 2 and Mr.T.Thiyagarajan, learned counsel for the respondents 3 and 4.

3. The instant appeal had been filed challenging the judgment and decree in which the trial Court had granted damages in favour of the plaintiffs and defendants 3 and 4 for the death of the plaintiffs' father. The plaintiffs had sought damages of Rs.25,00,000/- for the loss to the estate of the deceased



together with interest at the rate of 12% per annum. It is the claim of the plaintiffs that their father, who had driven the two-wheeler, had met with an accident which arose due to the negligence of the Police Department in placing a barricade without any proper notice board. Apart from that, such barricades also did not bear any reflectors to warn riders. After contest, the trial Court had granted damages of a sum of Rs.12,00,000/- together with interest at 6% per annum and had apportioned the same between the plaintiffs and defendants 3 and 4. Challenging the award of compensation, defendants 1 and 2 had filed the appeal suit and, not having been satisfied with the award of compensation, the plaintiffs had filed the cross-objections. For better understanding, the parties are referred to as per their rank in the suit.

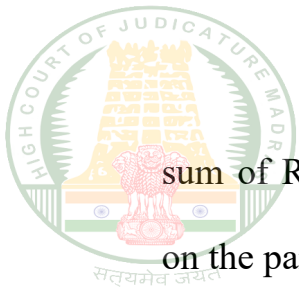
4. The trial Court had framed the following issues:

“1. Whether the plaintiffs and the defendants 3 and 4 are entitled to get decree for compensation from the defendants 1 and 2 as prayed for?

2. Is it true to say that the accident had happened due to rash and negligent driving of the deceased Ravichandran?

3. To what relief, the plaintiffs are entitled?”

5. The trial Court, on analysis of the evidence on either side, had come to the conclusion that the dependents of the deceased were entitled to be awarded a



sum of Rs.14,95,665/- but had deducted 25% towards contributory negligence on the part of the deceased from the said compensation and had also held that 3rd respondent/wife is entitled to a sum of Rs.25,000/- towards loss of consortium and each respondents 1 and 2/plaintiffs and 4th respondent/mother are entitled to a sum of Rs.25,000/- towards loss of love and affection and further the respondents 1 to 4 are entitled to a sum of Rs.25,000/- towards funeral expenses. In total the respondents are entitled to get a sum of Rs.12,46,748/- rounded to Rs.12,50,000/- towards compensation.

6. The learned counsel appearing on behalf of defendants 1 and 2 would primarily assail the judgment and decree on the issue of liability. He would submit that the check post with the horizontal pole had reflective stickers and all preventive measures were followed in placing the said check post. He would submit that the said barricade pole was for controlling and regulating traffic and had been in position for a very long time. He would submit that the entire accident took place due to the negligence of the deceased, who drove the vehicle in a rash and negligent manner.

7. That apart, he would submit that the deceased, being an employee of the Neyveli Lignite Corporation, had also been benefited with death-cum-gratuity benefits and therefore, the dependents of the deceased cannot be said to have suffered a financial loss for being compensated with the damages that had



been fastened upon them. He would submit that without considering the evidences adduced by D.W.1 to D.W.3 in its proper perspective, the trial Court had erred in holding that defendants 1 and 2 were liable to pay compensation for the negligent manner in which the barricade had been placed.

8. That apart, he would submit that the trial Court, having given a categorical finding that the deceased had also contributed, had failed to note that he was solely negligent and that the accident occurred only due to the negligence of the deceased and therefore defendants 1 and 2 cannot be held responsible for the accident. He would further submit that the compensation that had been awarded is also on the higher side without any cogent reasoning in arriving at the said compensation. Hence, he seeks the indulgence of this Court against the judgment and decree.

9. Countering his arguments, Mr.M.Murali, learned counsel appearing for the plaintiffs, would submit that the Court had considered the evidence of D.W.3, who was the investigating officer, that the accident had taken place due to the negligence in placing the check post without any notice board or reflectors. He would submit that D.W.3 had categorically admitted that the aforesaid check post was not in use and in such an event, the horizontal post of the check post ought to have been removed and had been left as it is without any maintenance whatsoever and therefore there is no necessity to interfere with the



well-considered findings of the trial Court in holding the defendants 1 and 2 liable to pay the compensation. He would submit that there is no material on record whatsoever to fasten the contributory negligence on the deceased without assigning any reasons whatsoever. The trial Court, in a casual manner, had found that the deceased could have avoided the accident, while fastening contributory negligence on him.

10. That apart, he would submit that the trial Court had also not granted future prospects on the admitted salary under Ex.A8. Under the damages, future prospects should also be taken into fold. Hence, he prays that this Court may enhance the damages that have been awarded.

11. The learned counsel for the plaintiffs further would submit that interest at only 6% per annum from the date of plaint had only been given, whereas, since the damages arose due to the death of the deceased, then the interest should be from the date of death at 7.5% per annum as granted under the Motor Vehicles Act.

12. The learned counsel appearing for defendants 3 and 4 also adopted the arguments made by the learned counsel for the plaintiffs.



13. I have heard the learned counsels appearing on either side and perused the materials available on record.

WEB COPY

14. The following issues arise for consideration:

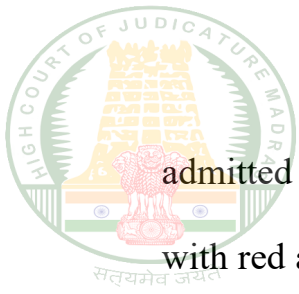
(a) Who was negligent for the accident in which the father of the plaintiffs had died;

(b) Whether the damages that were arrived at by the Court below are proper; and

(c) What would be the rate of interest and from which date such interest is payable.

Issue No.1:

15. The trial Court had found that the accident had taken place primarily due to the negligent manner in which the barricades had been placed, but it had also held that the negligence of the deceased had also contributed to the accident. It had primarily extracted the evidence of D.W.3, who was the Investigating officer. It is the case of D.W.3 that the accident had taken place due to the rash and negligent driving of the deceased, who was also under the influence of alcohol. However, in the cross-examination, D.W.3 had admitted that the checkpoint, where the barricade was placed had been discontinued. He had also stated that he did not know as to whether there was any notice board, as required under the Motor Vehicles Act, was placed. He had also categorically



admitted that there were no reflectors as required, but that it was only painted with red and white. The trial Court had also extracted the relevant portion of the evidence in that regard.

16. This Court had also gone through the evidence of D.W.3. No reasons have been attributed by defendants 1 and 2 as to why the barricade was kept when the use of the checkpoint had been discontinued. Apart from that, it had been admitted by D.W.3 that there were no reflectors, as claimed by defendants 1 and 2. The Motor Vehicles Act mandates reflectors when such barricades are kept on the road, particularly to alert the drivers, who drive in the dark. D.W.3 had also not substantiated that there were notice boards as required to be kept a 100 meters away from such barricades warning the drivers. In such an event, this Court do not find any infirmity or irregularity in the judgment of the trial Court, holding that defendants 1 and 2 are responsible for the accident.

17. The trial Court had also held that the deceased, had also contributed to the accident due to his rash and negligent driving. The said finding had been given on the presumption, that had the deceased driven the vehicle slowly, he would have avoided the accident. Thereby, the assumption that the deceased had driven the vehicle in a rash and negligent manner had weighed the mind of the trial Court. For the theory of rash and negligent driving on the part of the deceased, no witness had been examined. The final report filed by D.W.3 after



the investigation concluding that the deceased was under the influence of alcohol had also been thrashed. On the basis of evidence of P.W.5, who was a doctor and who had supported the post-mortem certificate marked as Exhibit P1, and the trial Court had come to the right conclusion that the deceased was not under the influence of alcohol.

18. The manner in which the final report had been filed itself shows that there had been an attempt to deny the rightful claim of the plaintiffs. Particularly taking note of the fact that the plaintiffs had approached this Court by filing the suit for damages only in the year 2009 by filing a pauper O.P, only after which the charge sheet had been filed.

19. As there had been no evidence on the contributory negligence, the presumption drawn by the trial Court that the accident would have taken place also due to the negligence of the deceased is vitiated. Hence, this Court answers Issue No.1, holding that the entire accident had taken place due to the negligence of defendants 1 and 2 in not taking any precaution, warning the riders of the presence of the barricade in a disused checkpoint.

Issue No.2:

20. There is no dispute with respect to Ex.P8, which is the salary slip of the deceased. A perusal of the award as rightly pointed out by the learned counsel



for the plaintiffs, the trial Court had not taken into consideration the future prospectus of an employee, particularly when he had been engaged in the Neyveli Lignite Corporation, who had issued Ex.P8. In such an event, this Court finds that the plaintiffs and the defendants 3 and 4 would also be entitled for compensation including the future prospects, which shall be calculated at 40% on Ex.P8.

Issue No:3

21. The Court below had granted interest at the rate of 6% from the date of plaint. The present case involves a road accident, which had been caused due to the negligence of defendants 1 and 2 in placing the brigades without any proper notice board and reflectors as required under the Motor Vehicles Act. Hence, the principles that had been enshrined under Motor Vehicles Act for grant of compensation is applicable to the facts of the case and hence, the dependants of the deceased are entitled for interest at the rate of 7.5% per annum from the date of death of the deceased.

22. In view of the aforesaid findings, the compensation awarded by the Court shall stand modified in the following manner:

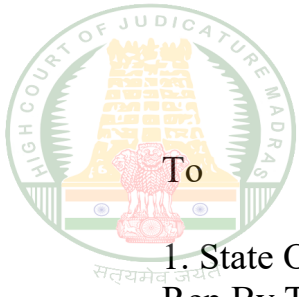


S.No	Heads of compensation awarded	Amount awarded by the Tribunal	Amount awarded by this Court	Amount Modified or Confirmed
1.	Loss of Dependancy	Rs.11079 x 12 -1/4 x 15 – 25% = Rs.11,21,748/-	Rs.11079+40%- 1/4 x12 x15 = Rs.20,93,931/-	Enhanced
2.	Loss of Consortium	Rs.25,000/-	Rs.25,000/-	Confirmed
3.	Loss of Love and Affection	Rs.25,000/- x 3= Rs.75,000/-	Rs.25,000/- x 3= Rs.75,000/-	Confirmed
4.	Funeral Expenses	Rs.25,000/-	Rs.25,000/-	Confirmed
	Total	Rs. 12,46,748 rounded off to Rs.12,50,000/-	Rs.22,18,931/- <i>rounded off to</i> Rs.22,20,000/-	Enhanced

23. In fine, the appeal suit is dismissed and the Cross-objections stands partly-allowed. No costs. On the aforesaid amount, interest at the rate of 7.5% per annum from the date of accident is liable to be paid. The compensation awarded under this order shall be apportioned between the defendants in the same proportion as ordered by the Trial Court. Consequently, connected miscellaneous petitions are closed.

20-04-2026

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



To

1. State Of Tamil Nadu
Rep By The Collector Of Cuddalore, Collectorate
Building, Cuddalore.

2. The Supeintendent Of Police
Superintendent Of Police Building, Cuddalore.

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



WEB COPY

AS No. 72 of 2



K.KUMARESH BABU J.

kak

**AS No. 72 of 2017
AND
CROS.OBJ NO. 69 of 2017
and
C.M.P.Nos.9239 & 9240 of 2018
and
CMP NO. 3033 of 2017**

20-04-2026