

C.M.A.No.477 of 2026 and C.M.P. No.5753 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 27.02.2026

Pronounced on : 24.04.2026

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No.477 of 2026 and C.M.P. No.5753 of 2026

The Branch Manager,
United India Insurance Co. Limited
No.2, Taj Tower,
Mayiladuthurai

...Appellant

Vs.

1.Minor. Krithika

Represented by her mother and Guardian Vembu

2.The Managing Director,

No.2, Pallavan Salai,

State Express Transport Corporation,

Chennai.

3.Sasikumar

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act,1988, against the Award dated 23.01.2025 made in M.C.O.P No.226 of 2019 on the file of the Motor Accident Claims Tribunal, Additional Sub Judge, Mayiladuthurai.



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For Appellant : Ms. I. Malar

For Respondents : Ms. Vasavi Sridevi for R1
Mr. S.S. Santhosakumar for R2

JUDGMENT

This Appeal is directed against the award dated 23.01.2025 made in M.C.O.P No.226 of 2019 on the file of the Motor Accident Claims Tribunal, Additional Sub Judge, Mayiladuthurai.

2. Shortly stated, on 22.04.2019 at about 04.30 a.m., when the 1st respondent / petitioner was travelling in a car bearing Registration No.TN 82 1957, belonging to the third respondent, near Puthur Main Road Post Office, the said car dashed against the appellant / transport corporation bus, which was parked in the middle of the road without any signal, as a result of which she sustained multiple injuries.

3. The claimant filed the above MCOP claiming compensation of Rs.5,00,000/- for the injuries sustained by her in the said accident.



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4. The claim was opposed by the Insurance Company and the State Transport Corporation.

5. The Claims Tribunal framed necessary issues and came to the conclusion that the accident took place due to the rash and negligent driving of the driver of the car. A compensation of Rs.1,92,632/- is awarded by the Tribunal to be paid by the appellant/Insurance Company together with interest at the rate of 7.5% per annum from the date of claim petition till the date of realization.

6. The learned counsel for the appellant / Insurance Company would submit that the 3rd respondent herein is the owner of the car bearing Registration No.TN 82 1957 and the said vehicle has been insured with the appellant at the time of accident. The 1st respondent herein has preferred a claim petition before the Motor Accident Claims Tribunal. Mayiladuthurai, alleging that the abovesaid vehicle had involved in an accident on 22.04.2019. In the above claim petition, the claimant would submit that the driver of the bus bearing Registration No.TN 01 N 5160 stopped the vehicle on the middle of the road without making any signal. At 4.30 a.m, the owner cum driver of

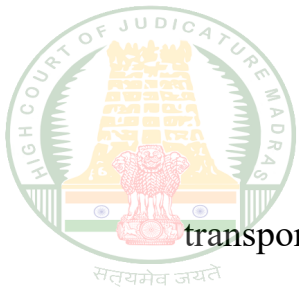


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the car hit against the said bus. He would further submit that, unfortunately,

the Tribunal had shifted the entire burden on the appellant / Insurance Company, which is unsustainable; that the Tribunal has not considered the fact that the FIR was filed against the driver of the bus; that the evidence of P.W.1 was also against the 2nd respondent's bus driver who stopped the bus on the middle of the road without any signal and that due to the negligent act of the driver of the bus, the accident occurred. However, the Tribunal, relying on the final report in which it has been shown as "closed as mistake of fact", arrived at the conclusion that the owner cum driver of the insured vehicle is responsible for the accident, which is incorrect. It is further submitted that the final report was not even marked as exhibit and the 2nd respondent failed to adduce evidence to substantiate its contention before the Tribunal. He would further submit that even assuming that the referral of the criminal case as mistake of fact which is factually correct, even then, the duty of the claims tribunal, as contemplated under Section 168 of the Motor Vehicles Act, is to hold an enquiry into the claim. Without considering these facts, the Tribunal has fixed entire liability on the appellant, warrants interference by this Court.

7. On the other hand, the learned counsel for the 2nd respondent /



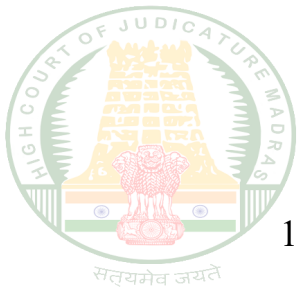
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transport corporation would submit that the driver of the bus was not

negligent. Due to mechanical defect, the bus was parked with indication lamp and without any hindrance to the other vehicle. Further, FIR was closed as mistake of fact after thorough investigation by police. Hence, the Tribunal, considering the facts and circumstances of the case, has rightly fixed the liability on the appellant / Insurance Company, warrants any interference by this Court.

8. Heard on both sides.

9. It is not in dispute that on 22.04.2019, at about 4.30.a.m., the car bearing Registration No.TN 82 1957, near Puthur Main Post office, hit against the bus parked on the side of the road. Though it is contended by the second respondent that the bus was parked with indication lamp and without any hindrance to the other vehicle, the same has not been established. The Tribunal has to analyse the evidence before it. However, had the driver of the car driven the same in a proper manner, the accident could have been avoided. Hence this Court is of the view that, fixing negligence in the ratio of 50:50 between the driver of the car and the driver of the bus would be appropriate.

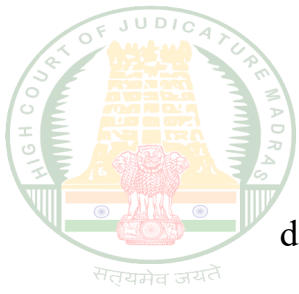


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10. In the result,

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- i.The Civil Miscellaneous Appeal is partly allowed. No costs.
Consequently connected miscellaneous petition is closed.
- ii. Negligence is fixed in the ratio of 50:50 between the driver of the car and the driver of the bus.
- iii.The appellant/Insurance company is directed to deposit a sum of Rs.96,316/- (50% of the total award amount of Rs.1,92,632/-) (less the amount already deposited) and the 2nd respondent / State Transport Corporation is directed to deposit a sum of Rs.96,316/- (50% of the total award amount of Rs.1,92,632/-) with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this order, to the credit of M.C.O.P No.226 of 2019 on the file of the Motor Accident Claims Tribunal, Additional Sub Judge, Mayiladuthurai. The appellant / Insurance Company is at liberty to withdraw the excess amount, deposited by them, over and above the compensation awarded by this court.
- iv.On such deposit being made, the same shall be deposited in a fixed



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deposit in any one of the Nationalised bank in the name of the 1st

respondent / claimant until she attain majority, and the guardian of the
minor 1st respondent / claimant is permitted to withdraw the interest
amount accrued thereon once in three months.

24.04.2026

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Internet:Yes/No

Index:Yes/No

Speaking/Non-speaking order

To

1. The Additional Sub Judge, Motor Accident Claims Tribunal,
Mayiladuthurai.
2. The Managing Director,
No.2, Pallavan Salai,
State Express Transport Corporation,
Chennai.
3. The Section Officer, VR Section, High Court, Madras.



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Pre delivery judgment in
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