



C.M.A(MD)No.997 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date of Reserved	05.11.2025
Date of Pronounced	23.01.2026

CORAM:

THE HONOURABLE MS.JUSTICE R.POORNIMA

C.M.A.(MD)No.997 of 2012

and

M.P(MD)No.1 of 2012

The New India Assurance Company Limited,
Divisional Office, 242B, Kamarajar Salai
Madurai.

through the Divisional Manager

: Appellant/3rd Respondent

Vs.

1.B.Sampooranam

2.B.Srivathsan : Respondents 1 & 2/Petitioners

3.M/s.Tamil Nadu state Transport Corporation Ltd.,
Bye-pass Road, Collectorate Post,
Dindigul,
through its Managing Director

4.S.Kanchana

5.V.B.Salit



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6.M/s.Oriental Insurance Company Ltd.,
Divisional Office, Gramodhyok Buildings,
8, Thirupparankundram Road,
Madurai.

Through its Divisional Manager

: Respondents 3 to 6/Respondents 1, 2, 4 & 5

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award, dated 14.10.2009 passed in MCOP No.194 of 2004 on the file of the Motor Accident Claims Tribunal, (III Additional District Court, PCR), Madurai, and allow this Civil Miscellaneous Appeal.

For Appellant : Mr.B.Vijay Karthikeyan

For Respondents : Mr.C.M.Mari Chellaiah Prabhu – for R1 & R2

Mr.M.Prakash - for R3

Mr.K.Balasubramanian – for R6
(No appearance)

dispensed with – R4 & R5

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the Appellant/3rd respondent insurance company, challenging the award,



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dated 14.10.2009 passed in MCOP No.194 of 2004 on the file of the Motor Accident Claims Tribunal, (III Additional District Court, PCR), Madurai.

2. Brief facts of the petition filed by the claimants before the Tribunal are as follows:-

(i) On 05.05.2003 at about 17.30 hours, the deceased travelled in the 2nd respondent's lorry bearing Registration No.TN-27-V -1606 from Madurai to Chinnamanur. The said lorry was driven by its driver slowly from east to west by keeping to the left side of the road. When the lorry was nearing Karumathur Arulanandar College, the 1st respondent's driver drove the transport bus bearing registration No.TN-57-N-0856 from west to east in a rash and negligent manner and dashed against the 2nd respondent's lorry bearing registration No.TN-27-V-1606 and a car bearing registration No.TN-01-F-5349 belongs to the 4th respondent. Due to the said impact, the deceased succumbed to injuries on the spot.

(ii) Over the occurrence, a case in Crime No.94 of 2003 was registered by the Chekanurani Police Station for the offence under Sections 279, 337 and 338 IPC against the driver of the 1st respondent's



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lorry and on completion of investigation, investigating agency filed a final report, reporting that the accused/driver was died and the same was recorded by the learned Judicial Magistrate, Usilampatti and the same was closed.

(iii) The deceased was aged about 35 years and he was working as a Junior Assistant in the Assistant Elementary Educational Office, Chinnamamur, Theni District and thereby earning a sum of Rs.4,028/- per month.

(iv) The accident occurred solely due to the rash and negligent driving of the 1st respondent's driver alone. The deceased contributed a sum of Rs.5,000/- p.m to the 1st petitioner for family maintenance. Due to the sudden demise of the deceased, the 1st petitioner lost her loving son and his love and affection.

(v) 1st , 2nd , and 4th respondents are owners of the vehicles bearing registration Nos.TN-57-N-0856, TN-27-V-1606 and TN-01-F-5349 respectively. 2nd and 4th respondents' vehicles are duly insured with 3rd and 5th respondents respectively. The 1st respondent is liable to pay compensation to the petitioners. Therefore, the petitioners are claiming a sum of Rs. 10,00,000/- towards compensation.



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3. Before the Tribunal, the first respondent/Transport

Corporation filed a counter-affidavit denying the manner of the accident as alleged in the claim petition and disputed its liability to pay compensation. The first respondent alleged that the accident occurred only due to rash and negligent driving of the driver of the lorry and car, hence the 2nd and 5th respondents are alone liable to pay compensation to the petitioners, and not by them.

4. Before the Tribunal, the third respondent filed a counter affidavit denying the manner of the accident by stating that the deceased was travelling in the lorry bearing registration No. TN 27-V-1606 at the time of the accident as an unauthorised passenger. Since the owner of the lorry bearing Registration No.TN-27-V-1606 had violated the requirement of the policy condition, the insurance company is not liable to pay compensation. It further stated that at the time of the accident, the first respondent's bus driver drove the bus bearing registration No.TN.57-N-0856 rashly and negligently dashed against the lorry and against the Car bearing registration No.TN-01-F-5349. So the first respondent is alone liable to pay compensation. Hence, prayed to dismiss the petition.



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5. Before the Tribunal, the fifth respondent filed a counter-affidavit denying the manner of the accident and its liability to pay the compensation.

6. During the trial, on the side of the claimants, one witness was examined as P.W.1 and 6 documents were marked as Ex.P1 to Ex.P6. On the side of the 1st respondent, R.W.1 was examined and on the side of the 5th respondent R.W.2 was examined and Ex.R1 and Ex.R2 were marked.

7. Upon consideration of the materials available on record, both oral and documentary, the Tribunal awarded a total sum of Rs.3,76,400/- as compensation and also directed the 1st respondent to pay 50% of the the award amount and the 2nd and 3rd respondents (owner of the lorry and its insurance company) are jointly and severally liable to pay 50% of the amount within a period of one month.

8. Aggrieved by the said award, the Insurance Company of the Lorry filed this appeal, contending that the Tribunal failed to note that the Transport Corporation Bus alone was responsible for the



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accident. The FIR, rough sketch all would go to show that the accident happened only due to the rash and negligent driving of the Bus and the bus went to the extreme right side as per the rough sketch and it proves that the bus alone was responsible for the accident.

9. It is the further grievance of the appellant that the Tribunal failed to note that the deceased travelled as a gratuitous passenger in a goods vehicle and therefore, the appellant is not liable to pay compensation.

10. Heard the learned counsel appearing on either side and perused the materials available on record.

11. Now, this Court has to decide whether the accident occurred due to the negligent act of the Transport Corporation Bus or the contributory negligence on the part of the driver of the insured vehicle of the appellant.

12. On scrutiny of the entire records, the crucial evidence of P.W.2, one of the eyewitness to the occurrence who was travelling in the



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bus clearly states that on the date of occurrence, the bus in which P.W.2 was travelling from Theni to Madurai along the East West road was driven by its driver in a rash and negligent manner. When the bus reached near Karumathur Arulanandar College, it collided with a lorry bearing registration No.TN-27-V-1606, on the Southern side of the road. The accident occurred due to the negligent act of the bus. P.W.2 further stated that after dashing into the lorry, the bus moved backwards and hit a car, which was following the bus. P.W.2, further stated that he sustained injury and one woman passenger who was travelling in the bus sustained injury and subsequently succumbed to the same.

13. He further stated that he came to know that Thiru.Selva Baskar, son of the first claimant was travelling in the lorry and also died in the accident and he informed the same to his friend. Apart from that Ex.P1, FIR was lodged against the driver of the Transport bus in Crime No.94 of 2003 on 05.05.2003, under Sections 279, 337, 338, 304(A) IPC, by the Sub Inspector of Police, Chekanurani Police Station. Upon receipt of intimation from the Government Hospital, the Sub Inspector of Police proceeded to the hospital and recorded the complaint statement of one Kannan, who was a passenger travelling in the Transport Corporation bus



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along with his wife and children. In the complaint statement, he stated that the transport bus bearing registration No.TN-57-N-0856 driven by its driver in a rash and negligent manner and dashed against the lorry bearing registration No.TN-27-V-1606. The death of Selva Baskar who was travelling in the lorry was also confirmed by the complainant.

14. Apart from the above, the investigating agency after due inquiry into the matter, filed a final charge sheet before the competent criminal Court against the driver of the Transport Corporation bus, holding that he drove the vehicle in a rash and negligent manner and caused the accident. The charge sheet was marked as Ex.P5. In support of the claimant's case, the Motor Vehicle Inspection report was produced, and marked as Ex.P3. A perusal of the same, the accident shows that the Motor Vehicle Inspector noticed the damage on the bus on its right side, and noted damages on the lorry as front both windscreen glasses, front, both headlights are broken, R/A four centre portion of the driver's cabin, bumper, radiator, dashboard, steer wheel, steer linkages, front R/A side portion are damaged and concluded that the accident did not occur due to any mechanical defect of both vehicles. Further on the side of the respondent one Thiru.Thirumal, an officer of the fifth respondent,



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Oriental Insurance Company was examined as R.W.2, through him, the inspection report submitted by the investigating officer was produced as Ex.R2, in which it was stated that the first respondent, Transport Corporation bus driver was responsible for the accident.

15. On the side of the respondents the conductor of the Transport Corporation bus was examined as R.W.1. However, his evidence did not support the defence of Transport Corporation. The trial Court found that the road was 25 feet width with 4 feet mud road on both sides and that two vehicles could easily pass through the road without any difficulty. Further held that the accident occurred in the middle of the road, came to the conclusion that the lorry was driven in a negligent manner having gone to the wrong side of the road and turned to the right side instead of keeping to the left side. Accordingly, the trial Court held both the transport driver and the lorry driver were responsible for the accident which is not proper.

16. The Tribunal failed to discuss about the evidence of P.W.2, the eyewitness to the occurrence, as well as the FIR and final report. The Tribunal further failed to consider the rough sketch, which



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forms part of the investigating report marked as Ex.R2 in which the Investigating Officer marked the place of occurrence on the Southern side of the road. Admittedly, the Transport Corporation bus was travelling from West to East - Madurai to Theni Road, while the insured lorry was proceeding from East to West. In the rough sketch, it was clearly mentioned that the lorry was driven on the extreme left side of the Southern side. The bus which was travelling from West to East ought to have driven on the extreme left side of the northern side of the road. However, as per the rough sketch, the bus came on the Southern side and hit the lorry, which clearly shows that the bus driver who drove the vehicle in a rash and negligent manner caused the accident. It further shows that at the time of the accident, the Lorry was found on a 5-foot mud Road on the Southern side. The Tribunal without considering the evidence of P.W.2, the FIR, the final report, the Motor Vehicle Inspection report and the rough sketch, erroneously came to the conclusion that the lorry was driven on the wrong side, and the accident occurred in the middle of the road. Further, the Tribunal held the appellant and the owner of the Lorry liable to pay compensation, which is improper, and the said finding is therefore, liable to be set aside.



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17. In the result, the Civil Miscellaneous Appeal is allowed and the order dated 14.10.2009 passed in MCOP No.194 of 2004 on the file of the Motor Accident Claims Tribunal, (III Additional District Court, PCR), Madurai, holding the liability on the part of appellant is hereby set aside. This Court directed the 3rd respondent/Transport Corporation to pay the entire award amount to the respondents 1 & 2/petitioners. The 3rd respondent/Transport Corporation is directed to deposit the entire award amount together with accrued interest and costs, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the respondents 1 & 2/petitioners are permitted to withdraw their shares along with interest and costs, by filing an formal petition before the Tribunal. The appellant-insurance company is permitted to withdraw the amount already deposited, if any, after the appeal time is over. No costs. Consequently, connected Miscellaneous Petition is closed.

23.01.2026

Index : Yes / No
Internet : Yes / No
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To

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- 1.The Motor Accident Claims Tribunal/
(III Additional District Court, PCR),
Madurai,
- 2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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R.POORNIMA, J.

er/rm

Pre-Delivery Judgment in
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