

C.M.A(MD)No.1217 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 09.04.2026

Pronounced on : 19.06.2026

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.1217 of 2024
and
C.M.P.(MD)No.12816 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation Ltd,
Railway Station New Road,
Kumbakonam.

: Appellant

Vs.

1.Ramoorthy

2.Dhanalakshmi

3.The General Manager,
Iffco- Tokio General Insurance Company Limited,
2nd Floor, 28, North Usman Road,
T.Nagar, Chennai 17

: Respondents

(Memo filed on 03.03.2026 in USR No.9028 is recorded to the effect that notice to R2 is dispensed with as she was set ex-parte before the Tribunal vide Court order, dated 26.03.2026 made in CMA(MD)No.1217 of 2024))

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award passed in M.C.O.P.No.326 of



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2019, dated 29.09.2023, on the file of the Motor Accident Claims Tribunal,
Sub Court, Kumbakonam.

For Appellant : Mr.S.Micheal Heldon Kumar

For Respondents : Mr.V.Sakthivel, for R3.

: No Appearance, for R1.

J U D G M E N T

The Civil Miscellaneous Appeal is directed against the award in M.C.O.P.No.326 of 2019, dated 29.09.2023 on the file of the Motor Accident Claims Tribunal, Sub Court, Kumbakonam.

2. The appellant/Transport Corporation, who was directed to pay 25% of compensation awarded at Rs.1,00,000/- to the first respondent/claimant for the disability sustained by him, consequent to an accident occurred on 26.06.2006, challenged the liability mulcted on it and also the quantum of compensation awarded at by the Tribunal.

3. It is pertinent to note that the Tribunal rendered a finding that both the lorry driver and the bus driver were responsible for the accident and



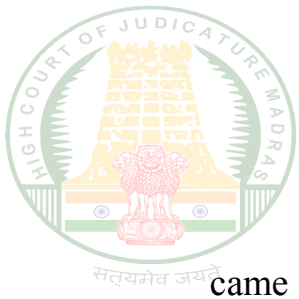
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taking note of the evidence fixed the contributory negligence at 25% on the bus driver and 75 % on the lorry driver/claimant herein.

4. The learned counsel for the appellant/Transport Corporation would submit that a criminal case came to be registered against the lorry driver; that in the case connected with the same accident in M.C.O.P.No.111 of 2019, on the file of the Sub Court, Kumbakonam, an award was passed on 21.06.2011, wherein it was held that the negligence of the lorry driver alone was responsible for the accident; that though the said award passed in M.C.O.P.No.111 of 2019 was produced, the Tribunal failed to consider the same and that the Tribunal, without considering the evidence in proper perspective has erroneously fixed the contributory negligence at 25% on the Transport Corporation and that the amount awarded under various heads by the Tribunal are excessive.

5. The case of the claimant is that on 26.06.2006 at about 04.50 pm., when the claimant was driving the lorry bearing Reg.No.TN-31-B-7599, in Kumbakonam to Tiruvarur main road and while turning the vehicle, a bus bearing Reg.No.TN.-49-N-1000, which was driven by a temporary driver,



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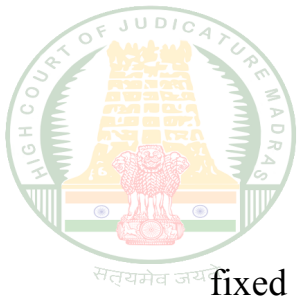
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came in a rash and negligent manner and without sounding horn, dashed against the lorry, as a result of which, the claimant sustained serious injuries all over his body and that the accident was occurred only due to the rash and negligent driving of the bus driver.

6. The defence of the appellant/Transport Corporation is that while the bus was proceeding near Krishnapuram bus stop, the lorry bearing Reg.No.TN-31-B-7599, which came in a rash and negligent manner, had dashed against the bus and caused the accident and that the lorry driver alone was responsible for accident.

7. It is pertinent to note that the accident and the involvement of the bus bearing Reg.No.TN.-49-N-1000 and the lorry bearing Reg.No.TN-31-B-7599, are not in dispute, but the only dispute is as to who was responsible for the accident.

8. As already pointed out, according to the claimant, the bus driver was at fault. But according to the appellant/Transport Corporation, the claimant/lorry driver was at fault. As already pointed out, the Tribunal has



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fixed the liability at 25% on the Transport Corporation and 75% on the insurer of the lorry. No doubt, a passenger of the bus in dispute, who sustained injuries in the said accident, filed a claim petition in M.C.O.P.No. 111 of 2009 and after enquiry, the Tribunal passed an award, dated 21.06.2011, holding that the lorry driver (claimant herein) alone was responsible for the accident and directed the insurer to pay compensation of Rs.10,000/- with interest and costs.

9. The learned counsel for the appellant would mainly contend that, in the connected case, entire negligence was fixed on the lorry driver and despite production of the said judgment, the present Tribunal failed to consider the same and instead, fixed the liability also on the Transport Corporation and as such, the same is liable to be set aside.

10. It is pertinent to note that a finding rendered by another Motor Accident Claims Tribunal in a separate claim petition arising out of the same accident is not, by itself, conclusive or binding on the Tribunal adjudicating the present claim. At best, the earlier award would constitute a relevant piece of evidence and can be considered along with the other



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materials available on record. But at the same time, it cannot foreclose an independent appreciation of the evidence by the Tribunal in the present proceedings. The mere fact that, in the claim petition filed by one of the bus passengers, the Tribunal held the lorry driver solely responsible for the accident and awarded compensation of Rs.10,000/- against the insurer of the lorry would not automatically compel the Tribunal in the present case to record an identical finding.

11. The Tribunal adjudicating the present claim is duty bound to assess negligence on the basis of the pleadings and the evidence available before it. No doubt, as rightly contended by the learned counsel for the appellant, FIR came to be registered against the lorry driver (claimant herein) and the charge sheet was also laid against him, but in view of the prolonged pendency of the case, without any progress, the learned Magistrate has proceeded to stop the proceedings and acquitted the accused under Section 258 of Cr.P.C.

12. It is settled law that the police records, the opinion formed by the investigating officer while filing the final report, or even the findings of the



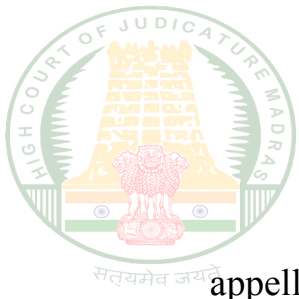
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Criminal Court are not binding on the Tribunal and the Tribunal is under an obligation to consider the evidence available before it and determine who was responsible for the accident.

13. Merely because the First Information Report was registered against the lorry driver and a final report was subsequently filed against him, it cannot be presumed that the lorry driver alone was responsible for the accident. The question of negligence has to be determined on the basis of the evidence available on record and not merely on the basis of the criminal prosecution.

14. It is pertinent to note that the appellant Transport Corporation, which seeks to fasten the entire liability on the lorry driver, has not examined either the bus driver or the conductor, who were the best available witnesses to speak about the manner in which the accident occurred. No doubt, the appellant has sought to explain the non-examination of the bus driver by contending that he was only a temporary employee and had subsequently left service. However, even then, no attempt was made to summon him as a witness. More importantly, the



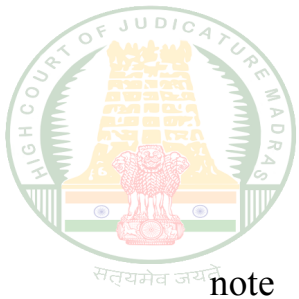
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appellant has not chosen to examine the conductor or any other eyewitness to the occurrence. This omission materially weakens the defence put forth by the appellant. It is also relevant to note that, except examining an Assistant Engineer attached to the Transport Corporation as R.W.1, no other witness was examined on its behalf.

15. Considering the evidence available on record, the Tribunal has rightly fixed the contributory negligence at 25% on the bus driver and consequently, on the appellant/Transport Corporation and as such, the same cannot be found fault with.

16. As already pointed out, the Tribunal attributed 75% negligence to the claimant, who was none other than the driver of the lorry, and 25% negligence to the driver of the appellant Transport Corporation bus. Having held that the claimant himself was a joint tortfeasor to the extent of 75%, this Court is at a loss to understand how the Tribunal could have directed the insurer of the lorry to pay 75% of the compensation awarded to the claimant. But, the insurer of the lorry has not preferred any appeal challenging the said direction issued by the Tribunal. It is also pertinent to



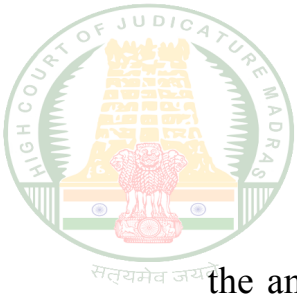
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note that the appellant Transport Corporation has not specifically challenged the quantum of compensation determined by the Tribunal.

17. Be that as it may, this Court finds that the Tribunal was justified in fixing 25% contributory negligence on the part of the driver of the appellant Transport Corporation bus and 75% negligence on the part of the claimant/lorry driver. The said finding is based on a proper appreciation of the oral and documentary evidence available on record and does not warrant interference by this Court. Consequently, this Court concludes that the appeal is devoid of merits and is liable to be dismissed.

18. In the result, this Civil Miscellaneous Appeal is dismissed and award dated 29.09.2023 passed in M.C.O.P.No.326 of 2019 on the file of the Motor Accident Claims Tribunal cum Additional Sub Court, Kumbakonam, is confirmed. The appellant/Transport Corporation is directed to deposit the award amount as directed by the trial Court, along with interest at 7.5% per annum from the date of petition till the date of realization to the credit of M.C.O.P.No.326 of 2019 on the file of the Motor Accident Claims Tribunal cum Additional Sub Court, Kumbakonam, less



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the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment and on such deposit, the claimant is permitted to with draw the award amount along with accrued interest and costs, less amount already withdrawn, if any, on due application before the Tribunal. The parties are directed to bear their own costs. Consequently, connected Miscellaneous Petition is closed.

19.06.2026

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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To

1.Motor Accident Claims Tribunal cum Additional Sub Court,
Kumbakonam.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Pre-delivery order made in
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and
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