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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 06.10.2026

Delivered On : 30.10.2026

CORAM

THE HON'BLE DR. JUSTICE P. MURUGAN

CMA(MD) No. 587 of 2018
CNR:{HCMD010959952018}

1. Lakshmi,
   W/o Sappani Muthu,
   Mutharam, Pudhuppatti,
   Pudhukkottai.

2. Nesam,
   W/o Nagarajan,
   South Street, Chitrakudi,
   Thanjavur District.

3. Chinniayan,
   S/o Palani Murugan,
   149/29, Mela Alangam,
   Thanjavur.

4. Ravichandran,
   S/o Palani Murugan,
   149/29, Mela Alangam,
   Thanjavur.

5. Malar Selvi,
   D/o Thangavel,
   Muthuram, Pudhuppatti,
   Pudhukkottai.

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6. Hemalatha
D/o Thangavel,
Muthuram, Pudhuppatti,
Pudhukkottai.

7. Sagunthala
D/o Thangavel,
Muthuram, Pudhuppatti,
Pudhukkottai. ... Appellants

Vs.

M/s. Tamilnadu State Transport
Company Ltd.,
Kumbakonam,
Through its Managing Director,
Kumbakonam. … Respondent

PRAYER: This Civil Miscellaneous Appeal is filed under section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 09.07.2014 made in M.C.O.P.No.06 of 2011 on the file of the Special District Judge, Motor Accident Claims Tribunal, Thanjavur, and praying to set aside the same.

For Appellants : Mr. K.Mahendran

For Respondent : Mr.S.Micheal Heldon Kumar
Standing Counsel For TNSTC

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J U D G M E N T

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 (herein after referred to "1988 Act"), against the award dated 09.07.2014 made in M.C.O.P.No.06 of 2011 on the file of the Special District Judge, Motor Accident Claims Tribunal, Thanjavur, wherein the claim petition filed by the appellants herein was dismissed *in toto*.

2. The brief facts set out in the claim petition before the Tribunal is as that on 03.11.2008, when the deceased Boopathy proposed to came to Muthuram, Pudukkottai from Thenperambur to see her brother's (Thangavel) daughters. She came in a respondent bus bearing Registration No.TN-49-N-0961, at about 06.30 p.m, when she stepped down from the bus at Pudupatti bus stop from the front door of the bus, the driver of the bus rashly started the bus with great speed. Due to that, the deceased fell down from the bus and the back tyre of the bus crushed her head and she died on the spot. The petitioners are the class -II heirs of the deceased. There is no class – I heirs to the deceased Boopathy. The legal heirs certificate will be filed at the time of trial. The petitioners 5 to 7 are the daughters of

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Thangavel, i.e. the brother of Boopathy. Thangavel also died and his wife also died on 12.05.1996. Three children of Thangavel were looked after by the deceased Boopathy, since she has no issues. Her husband Apparasu also died on 12.11.1996. Out of the accident, a case in Crime No.205 of 2008 was registered under section 304(A) of I.P.C. Since the accident was purely due to the rash and negligent driving on the part of the driver of the respondent, the respondent is liable to pay compensation. Thereby, the petitioner prayed Rs.4,00,000/- (Rupees Four Lakhs only) as compensation before the Tribunal. The petitioners 1 and 2 are sisters and the petitioners 3 and 4 and 5 to 7 are the children of the deceased Boopathy's sister and brother respectively.

3. The brief counter of the respondent is as that all the allegations contained in the claim petition are denied. The driver of the respondent vehicle did not drive the vehicle in a high speed with a negligence manner. Based on the F.I.R, claim petition cannot be maintainable. When the bus was flying on 03.11.2008, the deceased Boopathy travelled in the bus, when it was stopped to pick up the passengers, at that time, the deceased Boopathy due to her old age fell down on her own and thereby, the accident was happened. The

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respondent is no way liable for the said accident. Two passengers, viz., S.Muthukumar and R.Sakthivel, residing at Door No.251/D, North Street, Kadiveli, Thillaidanam, Thiruvaiyaru, have given a written statement that the death of Boopathy was happened, at her own and the driver and conductor are no way liable for the said accident. As per the investigation in Crime No.205 of 2008, it reveals that the death of the deceased Boopathy was happened due to her own negligence and the criminal case was closed as “mistake of fact”. There is no documentary evidence to establish that the petitioners are the legal heirs of the deceased Boopathy. Therefore, the claim petition is liable to be dismissed.

4. Before the Tribunal, to establish the case facts, on the side of the petitioners, 3 witnesses were examined as P.W.1 to P.W.3 and 6 documents were marked as Ex.P1 to Ex.P6. On the side of the respondent, one witness was examined as R.W.1 and one document was marked as Ex.R1.

5. After taking into consideration of the case facts and evidence, the Tribunal finally had come to a conclusion that the accident was not happened due to the rash and negligent driving of the respondent driver and the deceased's death occurred due to her

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old age, and the back tyre of the bus ran over her. Further, the Tribunal held that the petitioners are not the dependents on the deceased Boopathy and thereby, the claim petition was dismissed in *toto*.

6. Against the said dismissal of the claim petition, the appellants filed this Civil Miscellaneous Appeal. Hereinafter the rank of the parties referred as before the Tribunal.

7. Heard both sides. Perused the records. Considered the submissions raised by both sides.

8. The points for consideration is as follows:

(I) Whether the accident was happened due to the act of rash and negligent driving of the respondent driver?

(II) Whether the contention of the respondent that at the very least the petitioners are entitled compensation on the principles of no fault liability under sections 140 and 163-A of the 1988 Act?

(III) Whether the petitioners are class – II legal heirs of the deceased Boopathy and they were the dependents on the deceased income?

(IV) Whether the appeal is to be allowed and the claim is to be

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ordered in favour of the petitioners?

9. Since Points 1 to 3 are interconnected, a common discussion of all three points is just and necessary.

10. As per the claim statement, the petitioners claim that the deceased Boopathy has no direct legal heirs and her husband predeceased on 12.11.1996. She has no children. The petitioners 1 and 2 are the sisters of the deceased Boopathy, and the other petitioners 3 to 7 are the children of Boopathy's sister and brother. Thereby, they comeup with the claim petition before the Tribunal. To establish the case that the first petitioner Lakshmi examined herself as P.W.1. As per her evidence, the case facts narrated in her proof affidavit. She is the sister of the deceased Boopathy. She admitted during her cross-examination that she was not an eyewitness to the occurrence. She averred in the petition that the petitioners are class II legal heirs. There is no facts disclosed in the claim petition that the petitioners are the dependents on the income of the deceased Boopathy. The deceased Boopathy was getting pension. There is no document to establish that the petitioners were dependents on the income of the deceased. Ex.P4 is the patta to hold that the petitioners and the deceased have some property. The other

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suggestions have been denied.

11. The village administrative officer Mr.Rajarajan has been examined as P.W.2. He spoken about the relationship of the petitioners with the deceased Boopathy. The revenue authorities has no right to issue legal heir certificate, viz., class II heirs. Ex.P3 was issued by P.W.2 to hold that the relationship of the petitioners with the deceased Boopathy. Even P.W.2 did not know whether the deceased Boopathy was receiving old age pension. The other suggestions have been denied by him.

12. Another witness, viz., P.W.3 Mr.Veeraiah has been examined, who spoke about the accident happened as an eye witness. He travelled in the bus bearing Registration No.TN-49-N-0961, on 03.11.2008, while the deceased was also travelling in the bus, the deceased got down from the bus suddenly and therefore, the deceased fell down and death of the deceased was happened. He was not given police complaint with regard to the accident. He was sitting on the last seat in the bus. The other suggestions have been denied.

13. The respondent examined its driver Mr. Shankar as R.W.1, who drove the bus bearing Registration No.TN-49-N-0961.

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Though the deceased was run over by the back tyre of the bus, it was not due to the rash and negligent driving of the bus driver, but the deceased suddenly fell down and died. Therefore, he is no way responsible for the said accident. On perusal of R.W.1, the accident was happened, when the deceased was travelling in the bus and the driver was driving the bus. However, he denied that the driver drove the bus in a rash and negligent manner.

14. The evidence placed by the petitioners reveal that P.W.3 is an eye witness, but as per his own evidence, he was travelling in the back side seat of the bus. Therefore, he was not aware of what had happened near to the front tyre of the bus. The Tribunal found that the accident occurred due to the age factor, as the deceased fell down and the rear tyre of the bus ran over her. The criminal case was closed as a mistake of fact. Therefore, this Court is of the firm view that the accident occurred when the deceased suddenly fell down while attempting to get down from the bus before it stopped. Therefore, to that aspect the findings of the trial Court is confirmed.

15. The claim petition was filed before the Tribunal under sections 140, 163A and 166 of 1988 Act. The learned counsel for the respondent, in his fairness, submitted that the Court may come to

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the conclusion that the death of the deceased was due to an accident, but not due to the rash and negligent driving of the driver. However, the petitioners may be entitled to compensation under the principle of no-fault liability under section 140 of the 1988 Act, which comes to Rs.50,000/- (Rupees Fifty Thousand only) for fatal accident. The accident was occurred on 03.11.2008. On the date of accident, as per section 140 of the 1988 Act, for no fault liability, a sum of Rs.50,000/- (Rupees Fifty Thousand only) is liable with regard to the death and a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) is liable with regard to the injury. Here, in this case, fatal accident was happened due to the negligence on the part of the deceased. It is argued by the learned counsel for the respondent, if at all the Court comes to a conclusion that no fault liability, the respondent is liable to pay only Rs.50,000/- (Rupees Fifty Thousand only).

16. Considering the above aspect, the Tribunal has come to a conclusion that the accident was happened not due to the negligence of the driver of the respondent, which is also confirmed by this Court. But, the accident is not disputed, it was due to the negligence of the deceased Boopathy. The petitioners are entitled only for a sum

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of Rs.50,000/- (Rupees Fifty Thousand only) for no fault liability as per section 140 of the 1988 Act.

17. The respondent contended that the petitioners are not the legal heirs of the deceased. The petitioners are the Hindu religion. Thereby, the deceased could have been Hindu and the same was not disputed by the respondent. The contention of the respondent is that the petitioners are not class I heirs as per the Hindu Succession Act, 1956 (herein after referred to "1956 Act"). Class I legal heir and the class II legal heir, as per the 1956 Act, deals with only the deceased male not for female as per the scheduled appended in the said 1956 Act. As far as the deceased Hindu female dies sections 15 and 16 deals with the distribution of the property left by the deceased female Hindu. The claim amount from the Motor accident is the property of the deceased. Thereby, the deceased female Hindu intestate to devolve as per sections 15 and 16 of the 1956 Act.

18. For better clarity, both the sections 15 and 16 of the 1956 Act are extracted below:

> *"15. General rules of succession in the case of female Hindus (1) The property of a female Hindu dying intestate shall devolve according to the rules set out in section 16,-*

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(a) firstly, upon the sons and daughters (including the children of any predeceased son or daughter) and the husband;

(b) secondly, upon the heirs of the husband;

(c) thirdly, upon the mother and father;

(d) fourthly, upon the heirs of the father; and

(e) lastly, upon the heirs of the mother.

(2) Notwithstanding anything contained in sub-section (1)-

(a) any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the father; and

(b) any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the husband.

16. Order of succession and manner of distribution among heirs of a female Hindu.-The order of succession among the heirs referred to in section 15 shall be, and the distribution of the intestate's property among those heirs shall take place according to the following rules, namely:- Rule 1.- Among the heirs specified in sub-section (1) of section 15, those in one entry shall be preferred to those in any succeeding entry, and those included in the same entry shall take simultaneously.

Rule 2.-If any son or daughter of the intestate had pre-deceased the intestate leaving his or her own

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children alive at the time of the intestate's death, the children of such son or daughter shall take between them the share which such son or daughter would have taken if living at the intestate's death.

Rule 3.-The devolution of the property of the intestate on the heirs referred to in clauses (b), (d) and (e) of sub-section. (1) and in sub-section (2) of section 15 shall be in the same order and according to the same rules as would have applied if the property had been the father's or the mother's or the husband's as the case may be, and such person had died intestate in respect thereof immediately after the intestate's death."

19. It is the case of the petitioners that the petitioners are the children of the deceased Boopathy's sister and brother. This factum is not disputed severely by the respondent as per P.W.2 and Ex.P3. Though it is not a legal heir certificate, it may be considered for determining whether the petitioners are the legal heirs of the deceased. Taking note of the provisions of sections 15 and 16 of the 1956 Act and there is no specific contention that the petitioners are not related to the deceased, this Court is of the firm view that the petitioners are classified as the relatives of the deceased Boopathy as per clause (d) of sub-section (1) of Section 15 of the 1956 Act.

20. There is no surviving son, daughter, or husband of the deceased. Therefore, the deceased estate devolves upon the heirs of

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her husband as per clause (a) of section 15(1). In the present case, the petitioners are the children of the deceased Boopathy's sister and brother. The deceased Boopathy and her sister and brothers are the heirs of the deceased Boopathy's father and having the petitioners are the children of the deceased sister and brother, the petitioners are entitled to compensation upon heirs of the father of the deceased. Though the Tribunal has come to a conclusion that the petitioners are not the dependents on the deceased Boopathy, as per sections 140 and 163A of the 1988 Act, for no fault liability, the legal heirs of the deceased is entitled to receive the said compensation. Though there is no legal heir certificate issued by the revenue authorities, the relation of the deceased Boopathy with the petitioners is not in dispute. Therefore, the petitioners claimed that they are entitled to the compensation and the said claim is legally sustainable in view of Sections 15 and 16 of the 1956 Act. As discussed above, the petitioners are entitled to a sum of Rs.50,000/- (Rupees Fifty Thousand only) as coupled with sections 140 and 163A of the 1988 Act.

21. In such view of the matter, this Court is of the firm view that the accident was occurred due to the sudden fell down of the

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deceased Boopathy and for no fault liability, the respondent is liable to pay Rs.50,000/- (Rupees Fifty Thousand only) as total compensation to the petitioners. Since the petitioners are seven in numbers, all are equally entitled to share of compensation. The respondent is liable for a sum of Rs.50,000/- (Rupees Fifty Thousand only) together with interest at the rate of 7.5% from the date claim petition till the date of realisation, subject to no interest if any period for the dismissed for default of the claim petition before the Tribunal and if there is any delay in filing appeal before this Court.

22. In such view of the matter, the Point No.I is answered that the accident was not occurred due to the rash and negligent driving of the respondent driver, but, it was occurred due to the sudden fell down of the deceased Boopathy. The Point No.II is answered that the respondent is liable to pay compensation for a sum of Rs.50,000/- (Rupees Fifty Thousand only) as no fault under sections 140 coupled with 163A of the 1988 Act. The Point No.III is answered that the petitioners are the relatives of the deceased Boopathy.

23. The Point No.IV is answered, by allowing the appeal in

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part and *setting aside* the trial Court award under impugned.

24. Considering the entire case, the respondent is liable to pay the cost this appeal as well as the claim petition before the Tribunal.

25. In the result, this Civil Miscellaneous Appeal is partly allowed by setting aside the award dated 09.07.2014 made in M.C.O.P.No.06 of 2011 on the file of the Special District Judge, Motor Accident Claims Tribunal, Thanjavur, and allowing the claim petition to that extent that the petitioners are entitled for a sum of Rs.50,000/- (Rupees Fifty Thousand only) together with interest at the rate of 7.5% from the date of claim petition before the Tribunal till the realisation subject to no interest for the dismiss for default period, if any, before the Tribunal and if there is any delay in filing the appeal before this Court. The respondent is directed to pay the said amount within a period of two months from the date of receipt of a copy of this judgment.

30.10.2026

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

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To

The Managing Director,
Tamilnadu State Transport Company Ltd.,
Kumbakonam,
Kumbakonam

Copy To :

Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

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DR. P. MURUGAN, J.

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Pre-delivery Judgment made in CMA(MD) No. 587 of 2018

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