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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	24.09.2026
Pronounced On	02.11.2026

CORAM

THE HONOURABLE MR JUSTICE K.K. RAMAKRISHNAN

CMA(MD) NO. 514 of 2023

{CNR: HCMD011166492018}

Case QR

1. S.Amutha
2. Senthamilselvan
3. S.Dinesh
4. S.Eswari
5. P.Sangli ...Appellant(s)

Vs

1.Tamil Nadu State Transport Corporation Limited
Represented by its Managing Director
Bye-Pass Road, Madurai.

2.Kumaresan

3.Sri Ram General Insurance Company
Represented by its Regional Manager
TP Claims, EPIP,
Riico Sitapuram, Jaipur,
Rajesthan.

4.Suriyaprakash ...Respondent(s)

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PRAYER: This Civil Miscellaneous Petition has been filed under Section 173 of Motor Vehicle Act to enhance the award of compensation passed in M.C.O.P.No.144 of 2010 dated 07.06.2013 on the file of the Motor Accidents Claims Tribunal cum Principal District Court, Theni to the appellants by allowing this appeal.

For Appellant(s) : Mr.S.Karthick Ramkumar

For Respondent(s) : Mr. K.Sudalaiyandi For R1

: Mr.D.Sivaraman for R3

: R2 Died

: No appearance for R4

JUDGEMENT

The claimants in M.C.O.P. No.144 of 2010 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Theni, have filed the present C.M.A.(MD).No.514 of 2023, challenging the 30% contributory negligence fixed on the deceased by award dated 07.06.2013 and to enhance the compensation.

2.Facts of the case:

2.1.The claimants are the legal dependants of the deceased S.M.Samy @ Mottayasamy. According to the claimants, on 01.03.2010 at about 3.15 p.m., the deceased was riding his two-wheeler bearing Registration No.TN-60-B-9986 on the Kottur–Seelayampatty Main Road. While he was attempting to overtake a

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lorry, a Transport Corporation bus bearing Registration No. TN-58-N-1226 came from the opposite direction in a rash and negligent manner driving by its driver and dashed against the deceased's two-wheeler. In the accident, the deceased sustained fatal injuries and died.

2.2.The claimants therefore filed M.C.O.P. No.144 of 2010, claiming compensation of Rs.30,00,000/- with interest. The 1st respondent/Transport Corporation contested the claim petition contending that the deceased, while attempting to overtake the lorry, failed to notice the bus coming from the opposite direction and got involved in the accident. It was further contended that, while overtaking the lorry, the deceased first scraped against a lorry, fell down and thereafter came under the wheels of the Transport Corporation bus. Hence, according to the Transport Corporation, the accident occurred solely due to the negligence of the deceased and the bus driver was not responsible.

2.3.The Insurance Company also disputed the negligence attributed to the lorry driver and contended that the accident occurred solely due to the negligence of the deceased.

2.4.Before the Tribunal, P.Ws.1 and 2 were examined and Exs.P1 to P7 were marked on the side of the claimants. The driver of the Transport Corporation bus was examined as R.W.1.

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3.Findings of the Tribunal:

3.1.Upon appreciation of the oral and documentary evidence, the Tribunal fixed 30% contributory negligence on the deceased and 70% negligence on the driver of the Transport Corporation bus and awarded a sum of Rs.19,16,252/- as compensation, together with interest at the rate of 7.5% per annum from the date of the claim petition.

Sl. No.	***Heads***	***Awarded Amount (in Rs.)***
1	Loss of dependency	18,71,252/-
2	Loss of Consortium	10,000/-
3	Loss of love and affection	30,000/-
4	Funeral expenses	5,000/-
Total Compensation Awarded		***Rs.19,16,252/-***

3.2.Aggrieved by the said award, the claimants have preferred the present appeal.

4.Submission of the learned counsel appearing for the appellants/claimants:

4.1.The learned counsel appearing for the claimants submitted that the accident occurred due to the rash and negligent driving of the Transport Corporation bus and that the Tribunal was not justified in fixing 30% contributory

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negligence on the deceased. According to him, the evidence of P.Ws.1 and 2 and the other materials on record clearly establish the negligence of the bus driver.

4.2.With regard to quantum, the learned counsel submitted that the deceased was a Constable and was aged only 40 years at the time of the accident. Therefore, the Tribunal ought to have awarded 50% towards future prospects. It was further submitted that the amounts awarded under the conventional heads were also inadequate and therefore the compensation requires enhancement.

5.Submission of the learned counsel appearing for the 1st respondent/Transport Corporation:

5.1.Per contra, the learned counsel appearing for the Transport Corporation submitted that the evidence clearly establishes that the deceased was attempting to overtake the lorry when the bus was approaching from the opposite direction. The deceased, without taking proper care, attempted to overtake and scraped against the lorry, fell down and was thereafter run over by the Transport Corporation bus. Therefore, according to the learned counsel, the Tribunal rightly fixed 30% contributory negligence on the deceased.

5.2.With regard to future prospects, the learned counsel submitted that the Tribunal had correctly applied the percentage applicable to the age of the deceased and that there was no justification for further enhancement.

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6.This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

7.In view of the rival submissions, the following points arise for consideration:

(i)Whether the Tribunal was justified in fixing 30% contributory negligence on the deceased and 70% negligence on the driver of the Transport Corporation bus?

(ii)Whether the compensation awarded by the Tribunal requires enhancement?

8.Discussion on negligence:

8.1.This Court carefully considered the evidence of P.Ws.1 and 2, the evidence of R.W.1, the driver of the Transport Corporation bus, and Ex.P7-sketch. A perusal of undisputed Ex.P7-sketch assumes significance. It discloses that the deceased, while riding the two-wheeler, attempted to overtake the lorry and, in the course of such overtaking, crossed over the middle portion of the road and entered the lane of the Transport Corporation bus coming from the opposite direction. Thereafter, the deceased scraped against the lorry and fell down and the bus ran over him.

8.2.The version emerging from Ex.P7-sketch is also broadly consistent with

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the other materials available on record. The deceased, while attempting to overtake the lorry, was required to exercise greater care and ensure that the opposite side of the road was free before proceeding to overtake. He failed to do so and thereby contributed to the occurrence.

8.3.At the same time, the negligence cannot be fastened entirely upon the deceased. The Transport Corporation bus is a larger vehicle approaching from the opposite direction. The driver, on noticing the two-wheeler entering his lane, was required to exercise reasonable care and take appropriate steps to avoid the collision, by reducing the speed, applying the brakes or moving further left of the road. The record shows that sufficient space was available on the left side of the road. It is relevant to extract the following paragraph no.16 of the Hon'ble Division Bench of Gujarat in the case of *Rehana Rahimbhai Kasambhai v. The Transport Manager, Ahmedabad Municipal Transport Service reported in AIR 1976 Guj 37 (DB)* is as follows:

> *"16. In a long series of decisions this court has been right1y guided by the view that those who are moving with heavy and mechanically operated vehicles in road traffic bear a greater responsibility not on1v towards the pedestarians and cyclists but also towards equally heavier and speedier vehicles and should, therefore, drive their vehicles in such a manner that they can stop them and take them into control within a fraction of a moment to avoid a*

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collision. The driver of such a vehicle should always be on a proper look out and watch the road behaviour of all the pedestrians and vehicles moving an the road."

8.4.The learned Tribunal Judge, upon appreciation of the entire evidence, has therefore apportioned the negligence at 30% on the deceased and 70% on the driver of the Transport Corporation bus. This Court finds that the said apportionment is based upon the evidence available on record and does not warrant interference. Accordingly, the finding of the Tribunal fixing 30% contributory negligence on the deceased and 70% negligence on the driver of the Transport Corporation bus is hereby confirmed.

9.Discussion on Quantum:

9.1.The deceased was working as a Constable. His date of birth is stated to be 20.04.1970 and the accident occurred on 01.03.2010. It is well settled, completed age is fully completed years and not the current running years. The Hon'ble Supreme Court in the case of *Prabhu Dayal Sesma v. State of Rajasthan & Anr.* reported in *(1986) (4) SCC 59 and Eerati Laxman v. State of A.P.,* reported in *(2009) 3 SCC 337* reiterated that a person is legally deemed to attain a specific age at the commencement or day preceding their birthday anniversary. Therefore, in this case, age of deceased was taken as 39 years. Therefore, the deceased had completed 39 years and was in his 40th year at the time of the accident. In terms of

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the applicable principle governing future prospects, a person below 40 years of age is entitled to 50% addition towards future prospects.

9.2.The Tribunal has failed to grant the appropriate addition towards future prospects. Therefore, the loss of dependency requires to be recalculated by taking 50% future prospects.

9.3.The monthly income of the deceased was Rs.21,615/-. By adding 50% towards future prospects, the monthly income works out to:

Rs.21,615 + 50% = Rs.32,422.50/-

Rounded off, the monthly income is taken as Rs.32,423/-. After deducting 1/5th towards the personal expenses of the deceased, the contribution to the family works out to 4/5th. Applying the multiplier of 15, the loss of dependency is calculated as follows:

Rs.32,423 × 4/5 × 12 × 15 = Rs.46,68,912/-

9.4.Insofar as the conventional heads are concerned, the tribunal has awarded Rs.10,000/- towards consortium is hereby enhanced to Rs.40,000/- and Loss of love and affection to the claimants 2 to 5, is hereby enhanced to Rs.1,60,000/- (each claimant Rs.40,000/-), Rs.5,000/- awarded towards Funeral expenses by tribunal, is hereby enhanced to Rs.25,000/-. Subsequently, under the heads of Loss of Estate, Transportation charges, this Court is awarded the amount

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Rs.15,000/- and Rs.10,000/- respectively.

9.5.These amounts are retained, subject to the overall permissible limits applicable to the claim, by the tribunal. Accordingly, this Court is awarded the amount under the above said heads respectively.

9.6.Accordingly, the compensation is recalculated and enhanced by taking the above loss of dependency. The contributory negligence of 30% attributable to the deceased shall thereafter be deducted from the total compensation, and the remaining 70% shall be payable by the Transport Corporation.

9.7.Accordingly, the compensation awarded by the Tribunal is modified and enhanced to the extent indicated above. The finding regarding negligence is maintained at 30% on the deceased and 70% on the driver of the Transport Corporation bus.

10.Conclusion:

10.1.For the foregoing reasons, the compensation awarded by the Tribunal to the claimant is re-determined as follows:-

Sl. No.	***Heads***	***Amount awarded by the Tribunal (in Rs.)***	***Re-quantified amount by this Court (in Rs.)***	***Status***
1	Loss of dependency	18,71,252/-	46,68,912/-	Enhanced
2	Loss of Consortium	10,000/-	40,000/-	Enhanced

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3	Loss of love and affection (each Rs.40,000/- to the claimant 2 to 5 by this Court)	30,000/-	1,60,000/-	Enhanced
4	Loss of Estate	-------	15,000/-	Awarded
5	Transportation Charges	--------	10,000/-	Awarded
4	Funeral expenses	5,000/-	25,000/-	Enhanced
Total Compensation Awarded		***Rs.19,16,252/-***	***Rs.49,18,912/-***	
Deduction of 30% contributory negligence to the deceased			***Rs.14,75,674/-***	
Total Entitled Amount		***Rs.19,16,252/-***	***Rs.34,43,238/-***	***Enhanced***

11.Result:

11.1.In the result, the C.M.A.(MD).No.514 of 2023 is ***partly allowed***.

11.2.The award dated 07.06.2013 in M.C.O.P. No. 144 of 2010 on the file of the Motor Accidents Claims Tribunal cum Principal District Court, Theni is hereby enhanced from ***Rs.19,16,252/-*** to ***Rs.34,43,238 /-,*** together with interest at the rate of 7.5% per annum from the date of the claim petition.

11.3.The finding of the Tribunal fixing 30% contributory negligence on the deceased and 70% negligence on the driver of the Transport Corporation bus is hereby confirmed. The compensation is enhanced by recalculating the loss of

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dependency by granting 50% towards future prospects.

11.4.The Transport Corporation is directed to deposit the enhanced amount, corresponding to its liability of 70%, together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit, after giving credit to the amount already deposited, if not already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment.

11.5.On such deposit, the claimants are entitled to withdraw the amount in accordance with the apportionment made by the Tribunal.

There shall be no order as to costs.

02.11.2026

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
AKM

To

1. The Motor Accident Claims Tribunal cum Principal District Court,
Theni.

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

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K.K.RAMAKRISHNAN,J.

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C.M.A.(MD).No.514 of 2023

https://www.mhc.tn.gov.in/judis

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CMA(MD) NO. 514 of 2023

Dated: 02.11.2026

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