



C.M.A.(MD).No.393 of 2

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 25.03.2026

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**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

C.M.A.(MD).No.393 of 2026

The Managing Director,
Tamil Nadu State Transport Corporation,
having its Office at Dindigul.

... Appellant / Respondent

Vs.

1.Muthulakshmi
2.Minor.Chinnasamy
3.Minor.Vijayalakshmi
4.Minor.Sivalakshmi
5.Lingammal

... Respondents / Petitioners

PRAYER:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order passed in M.C.O.P. No.395 of 2023 dated 09.08.2024 on the file of the Motor Accident Claims Tribunal Special Subordinate Court, Dindigul and allow the above Civil Miscellaneous Appeal.

For Appellant	:	Mr.S.Micheal Heldon Kumar
For Respondents	:	Mr.S.Sarvagam Prabhu



J U D G M E N T

WEB COPIED (Judgment of the Court was delivered by **K.K.RAMAKRISHNAN,J.**)

The appellant, the State Transport Corporation, challenges the award passed in M.C.O.P. No. 395 of 2023 on the file of the Motor Accident Claims Tribunal, Dindigul.

2.Facts of the Case:

The claim petition was filed by the respondent/claimant seeking compensation for the death of one Jayaraman. According to the claimant, the deceased was travelling as a passenger in the appellant Corporation bus bearing Registration No. TN57 N 1294 on the Vadasandur–Dindigul Road. It is alleged that the driver of the appellant Corporation bus drove the vehicle in a rash and negligent manner and suddenly applied brakes, as a result of which the deceased was thrown out of the bus, sustained grievous head and bodily injuries, and subsequently succumbed to the same in the hospital. In this connection, a criminal case was registered by the jurisdictional police in Crime No. 108 of 2023 against the driver of the appellant Corporation bus for offences under Sections 279, 337 and 304-A of the Indian Penal Code. The deceased was stated to be aged about 40 years and employed as a carpenter, earning a monthly income of Rs.30,000/-. The respondent/claimant, being a dependent of



the deceased, filed the claim petition seeking a total compensation of Rs.35,00,000/-.

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2.1.The appellant Corporation filed a counter statement denying the manner of the accident as alleged in the claim petition. It was contended that the deceased was under the influence of alcohol and, despite repeated warnings by the conductor, attempted to alight from the moving bus, thereby voluntarily inviting the accident. Hence, according to the appellant, the deceased himself was responsible for the occurrence, and being a tortfeasor, the claim petition was liable to be dismissed.

2.3.Before the Tribunal, on the side of the claimant, P.W.1 and P.W.2 were examined and Exs.P1 to P6 were marked. On the side of the respondent/Transport Corporation, R.W.1 to R.W.3 were examined and Exs. R1 to R3 were marked.

3.Finding of the Tribunal:

The Tribunal, upon consideration of the entire oral and documentary evidence, including the evidence of eyewitnesses, came to the conclusion that the deceased had consumed alcohol at the time of the occurrence. Taking into account the said circumstance, the Tribunal held that the deceased had



contributed to the accident to a certain extent due to his inebriated condition and fixed contributory negligence at 10% on the part of the deceased. With regard to the quantum of compensation, in the absence of documentary proof to establish the income of the deceased, the Tribunal fixed the notional monthly income at Rs.16,000/-, placing reliance on the principles laid down in the decision in the case of *Andal and others v. Avinav Kannan and another* reported in **2019 (1) TNMAC 54** Thereafter, by applying the appropriate multiplier and other conventional heads, the Tribunal awarded a total compensation of Rs.29,62,800/- on the following heads:

<i>Heads</i>	<i>Amount in Rupees</i>
Loss of dependency	30,24,000/-
Loss of Estate	16,500/-
Loss of consortium	2,20,000/-
Funeral Expenses	16,500/-
Transport Expenses	15,000/-
Total	32,92,000/-
10% contributory negligence	3,29,200/-
Gross Total	29,62,800/-

Aggrieved by the said award, the appellant Transport Corporation has preferred the present Civil Miscellaneous Appeal.



4.Submissions of the learned counsel for the appellant:

The learned counsel appearing for the appellant would contend that the learned Tribunal failed to properly appreciate the lack of entitlement of certain claimants, particularly the fifth respondent, and erroneously awarded consortium, including parental consortium, to him. It is further submitted that the award of Rs.16,500/- under the head of loss of estate is contrary to the settled principles of law. The learned counsel would further argue that the Tribunal did not adequately consider the conduct of the deceased, who, according to the appellant, was primarily responsible for the occurrence. It is contended that the deceased, in an inebriated condition, boarded the bus and occupied a front seat. Despite repeated warnings issued by the conductor, he failed to exercise due care. Consequently, when the driver applied brakes, the deceased, owing to his intoxicated mental condition, lost balance, fell down, sustained injuries, and subsequently succumbed to the same. Therefore, it is urged that contributory negligence ought to have been fixed at a higher percentage, preferably at least 50%, instead of the 10% determined by the Tribunal.

5.Submission of the learned counsel appearing for the respondent:

Per contra, the learned counsel for the claimants would submit that the Transport Corporation had a statutory and public duty to operate the bus with



proper safety measures, including functional side doors fitted with protective glass. The absence of such safety features constitutes a violation of the provisions of the Motor Vehicles Act, and such lapse directly contributed to the occurrence. It is therefore contended that the primary negligence lies with the appellant Corporation.

6.This Court considered the rival submissions made by the learned counsel for the appellant/insurance company and the learned counsel appearing for the respondent/claimants and perused the materials available on record.

7. The point that arises for consideration in this appeal:

7.1.Whether the deceased in anyway contributed to the accident, thereby warranting deduction towards contributory negligence,

7.2.Whether the quantum of compensation awarded by the Tribunal requires interference.

7.3.The question as to whether the deceased had consumed alcohol does not, by itself, absolve the Transport Corporation of its duty to ensure safe travel conditions. It is incumbent upon the Corporation to operate buses with adequate safety amenities, including proper side doors.



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8. Discussion on the quantum:

In the present case, it is evident that the bus was not fitted with proper side doors. In such circumstances, when the driver applied brakes, the deceased fell down as he lost. The absence of adequate safety measures materially contributed to the accident.

8.1. The learned Tribunal, having considered the aspect of intoxication, has rightly fixed contributory negligence on the part of the deceased at 10%. This Court finds no justification to enhance the said percentage, as contended by the appellant.

8.2. With regard to quantum, the Tribunal has appropriately assessed the income of the deceased, applied the correct multiplier, and awarded compensation under various heads. The contention of the appellant that the sum of Rs.16,500/- awarded towards loss of estate is excessive is untenable. Even as per settled principles, the amounts awarded under conventional heads such as loss of estate and funeral expenses are liable to be standardised, and in many instances, higher amounts are being granted.



8.3. In fact, the Tribunal has awarded only Rs.16,500/- towards funeral expenses, which is on the lower side when compared to the generally accepted standard. Any revision of conventional heads would, in effect, result in enhancement rather than reduction of the total compensation.

9. Liability of the Transport Corporation and Plea of Contributory

Negligence:

Once a passenger is permitted to board the bus and fare is collected, a corresponding duty is cast upon the driver and conductor to ensure the safety of such passenger until he reaches his destination. The Transport Corporation, being a common carrier, is under an obligation to exercise a high degree of care in the operation of its vehicles. In the present case, the evidence on record establishes that the deceased had boarded the bus, as a passenger and seated therein, and had paid the requisite fare. It was, therefore, incumbent upon the driver to operate the bus in a careful and prudent manner, without rashness or negligence. However, the materials on record disclose that the bus was driven in a rash and negligent manner and that a sudden brake was applied. As a consequence, the deceased lost balance, was thrown out of the bus, and sustained fatal injuries. Notably, even according to the case of the appellant—Transport Corporation, the fall occurred due to the sudden application of brakes. The contention of the appellant that the deceased was in an inebriated



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condition and, therefore, contributed to the accident cannot be accepted as a ground to attribute substantial contributory negligence. Mere intoxication of a passenger does not automatically lead to an inference of negligence on his part, unless it is shown that the bus was otherwise driven with due care and caution. On the contrary, if the deceased was visibly in an inebriated condition, it was the duty of the driver and conductor either to deny entry into the bus or take additional precautions to ensure his safety. Having permitted the passenger to board the bus and travel, the Transport Corporation cannot subsequently evade liability by attributing negligence to him. Further, the standard of proof in civil cases is that of preponderance of probabilities. Applying this principle, this Court is of the view that had the bus been fitted with mandatory safety measures such as automatic doors, the possibility of the passenger being thrown out of the bus upon sudden braking could have been effectively prevented. In such circumstances, the plea of the appellant seeking to attribute a higher degree of contributory negligence to the deceased is devoid of merit. This Court finds no justification to fix contributory negligence beyond a minimal extent, if any, on the part of the deceased. Accordingly, the contention of the appellant–Transport Corporation in this regard is rejected.



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10.Result

In view of the foregoing, this Court finds no merit in the appeal. The award passed by the Tribunal does not warrant interference. Accordingly, the Civil Miscellaneous Appeal stands dismissed.

[N.A.V.,J.] & [K.K.R.K.,J.]
25.03.2026

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To

- 1.The Motor Accident Claims Tribunal Special Subordinate Court,
Dindigul.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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