

C.M.A.No.1151 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2026

CORAM:

THE HON'BLE MR. JUSTICE N. ANAND VENKATESH

C.M.A.No.1151 of 2026

Divyapriya

... Appellant

Vs.

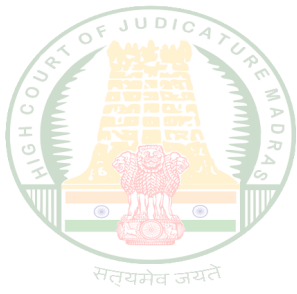
1. The Managing Director,
Tamil Nadu State Transport Corporation,
Tiruchi Main Road,
Villupuram – 605 602.

2. Indirani

3. Barathipriya

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award dated 16.11.2024 in MCOP No.302 of 2024, on the file of the Motor Accidents Claims Tribunal, Principal District Court, Villupuram, to the extent it grant compensation to the second respondent and set aside a fixation of 10% contribution negligent of claimant by the Tribunal and further direct the entire award amount to be paid to the rightful legal heir (the appellant/ 2nd petitioner) without any condition of fixed deposit.



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For Appellant : Mr.S.Elankumaran

For Respondents : Mr.C.R.Sureshkumar for R1

No Appearance (R2 & R3)

JUDGMENT

This civil miscellaneous appeal has been filed by the second claimant against the award passed by the learned Special District Judge, Motor Accidents Claims Tribunal, Villupuram, in MCOP No.302 of 2024 dated 16.11.2024, questioning the proportion of the award in favour of the second respondent and also questioning the 10% contributory negligence attributed by the Tribunal to the deceased.

2. The first claimant was the wife and the second claimant/appellant is the daughter of the deceased, Madhavan. The deceased, a TNSTC bus conductor, was travelling in the bus from Villupuram to Pudhucherry. At about 8.45 a.m., near Vlavanur, the driver of the bus drove the vehicle in a rash and negligent manner and as a result, the deceased, who was standing near the steps, was thrown out of the bus and he sustained grievous injuries and succumbed to injuries. Consequently, a First Information Report came to be registered in Crime No.410 of 2015



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against the driver of the bus. It is under these circumstances, the claim petition came to be filed before the Tribunal.

3. The first claimant was married to the deceased and later, their marriage was dissolved and therefore, the claim petition was effectively prosecuted by the second claimant/appellant, who was born out of the wedlock of the deceased and the first claimant. During the pendency of the claim petition, the second respondent filed an impleading petition to implead herself as a party to the proceedings on the ground that she was married to the deceased after his divorce. The impleading petition was allowed. However, the second respondent did not prosecute the case and therefore, she was set *ex parte*.

4. The Tribunal, on considering the facts and circumstances of the case and on appreciating the oral and documentary evidence, came to the conclusion that 90% of the negligence was attributable to the driver of the bus and 10% was attributable to the deceased since he was standing near the steps.

5. Having rendered the above finding, the Tribunal proceeded to fix the total compensation at Rs.20,93,779/- under various heads as follows:

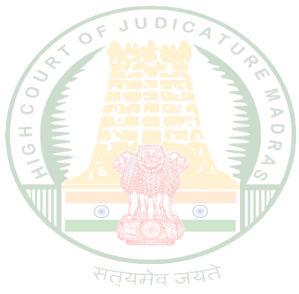


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S.No.	Heads	Compensation awarded by the Tribunal (in Rs.)
1.	Loss of Income	20,16,779
2.	Funeral Expenses	16,500
3.	Loss of Estate	16,500
4.	Loss of Love and Affection	44,000
Total		20,93,779
10% Contributory Negligence		2,09,378
Compensation Payable		18,84,401

From the above compensation, 10% contributory negligence was deducted and the total compensation was fixed at Rs.18,84,401/-, which was directed to be paid by the first respondent/Transport Corporation along with the interest at the rate of 7.5% per annum.

6. The Tribunal directed that the compensation be apportioned between the second claimant and the second respondent in the claim petition. Aggrieved by the same, the present appeal has been filed questioning the apportionment of the compensation in favour of the second respondent and also the 10% contributory negligence that was attributed to the deceased.



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7. The second respondent was served with notice through a paper publication and Affidavit of Service (AOS) was also filed. Thus, service was completed and there is no appearance on behalf of the second respondent, either in person or through counsel.

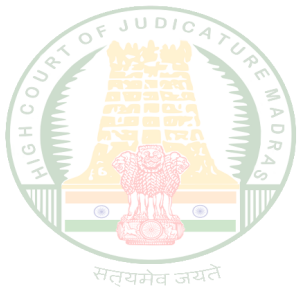
8. Heard Mr.S.Elankumaran, learned counsel for the appellant/claimant and Mr.C.R.Sureshkumar, learned counsel for the first respondent/Transport Corporation.

9. This Court, carefully considered the materials available on record and also went through the award passed by the Tribunal.

10. In the case in hand, the deceased was working as a conductor under the first respondent/Transport Corporation. It is common knowledge that during many instances, since the bus is filled with passengers, the conductor is forced to stand near the steps. Unfortunately, due to the rash and negligent driving on the part of the driver of the bus, the conductor was thrown out of the bus, which resulted in his demise. That by itself cannot result in attributing 10% contributory negligence to the deceased. The finding rendered by the Tribunal in this regard is hereby set aside and this Court holds that the entire negligence is attributable only to the driver of the

bus.

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WEB COPY 11. The second respondent, namely, Indirani, claims herself to be the wife of the deceased. She did not contest the case and had remained *ex parte*. Even before this Court, the second respondent has chosen not to contest the case. Thus, the second respondent did not establish her relationship with the deceased. In view of the same, it cannot be assumed that she is the second wife of the deceased. Therefore, the apportionment of the compensation in favour of the second respondent is unsustainable and the same is hereby set aside.

12. In the result, the compensation fixed by the Tribunal under various heads is sustained and the entire 100% of the compensation is directed to be paid to the appellant/second claimant along with interest.

13. Accordingly, this Civil Miscellaneous Appeal is allowed. The first respondent/Transport Corporation is directed to deposit the entire compensation amount along with accrued interest, less the amount already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment and on such deposit, the second claimant/appellant is entitled to withdraw the same by filing a due application. The directions



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issued by the Tribunal with regard to the mode of payment of compensation

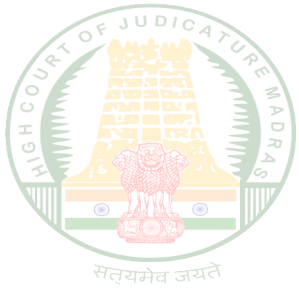
WEB COPY remains unaltered. No costs.

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Neutral Citation: Yes/No
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To

1. The Special District Judge,
Motor Accidents Claims Tribunal,
Villupuram.
2. The Section Officer,
VR Section,
High Court of Madras.



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N. ANAND VENKATESH, J.

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