

C.M.A(MD)No.719 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **21.01.2026**

Pronounced on : **26.02.2026**

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.A(MD)No.719 of 2025

and

C.M.P(MD)No.11422 of 2025

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam Division – II Ltd,
Periyamilaguparai,
Collector's Office Road,
Trichy - 620 001.

...Appellant/Respondent

Vs.

1. Amudhalakshmi,
W/o. Late. Sekar,
No.222/1, Goudampatti Keelur,
Thirupainjali Post,
Mannachanalur Taluk,
Tiruchirappalli District.
2. Minor. Dishan,
S/o. Late. Sekar,
No.222/1, Goudampatti Keelur,
Thirupainjali Post,
Mannachanalur Taluk,
Tiruchirappalli District.
3. Minor. Rugika,
D/o. Late. Sekar,
No.222/1, Goudampatti Keelur,
Thirupainjali Post,
Mannachanalur Taluk,
Tiruchirappalli District.



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4. Sivapackiam,
W/o. Duraisamy,
No.222/1, Goudampatti Keelur,
Thirupainjali Post,
Mannachanalur Taluk,
Tiruchirappalli District.

5. Duraisamy,
S/o. Kalipagadai,
D.No.5/108-1,
South Street, Inaampuliyur,
Keerikkalmedu, Koppu South,
Tiruchirappalli - 639 103.

6. Minor. Dhishvanth,
S/o. Late. Sekar,
No.222/1, Goudampatti Keelur,
Thirupainjali Post,
Mannachanalur Taluk,
Tiruchirappalli District.

...Respondents/Claimants

(2nd, 3rd and 6th Minor petitioners are represented by their mother and natural guardian Amudhalakshmi, the 1st respondent)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act 1988, to allow this appeal by setting aside the order and decretal order, dated 08.01.2025 made in M.C.O.P.No.134 of 2022 on the file of the Motor Accident Claims Tribunal/The Special District Judge No.II Tiruchirappalli.

For Appellant : Mr.K.Ramaiah

For Respondents : Mr.S.Balaji



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JUDGMENT

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This Civil Miscellaneous Appeal is preferred against the Award, dated 08.01.2025 passed in M.C.O.P.No.134 of 2022 by the Motor Accident Claims Tribunal/Special District Judge No.II to deal with MCOP Cases, Tiruchirappalli.

2.The respondent in M.C.O.P.No.134 of 2022 is the appellant herein.

3.The petitioners/claimants are respondents herein, who filed the claim petition in M.C.O.P.No.134 of 2022.

4.For the sake of convenience, the parties as arrayed in M.C.O.P.No.134 of 2022 is adopted hereunder.

5. The brief facts of the case:

On 25.12.2021, the deceased Sekar was travelling as a passenger in the respondent's bus bearing registration number TN 45 N 3353 from Trichy to his village, Goundampatti Keelur after completing his work. While the bus was running from east to west after passing Thiruppainjali towards Goundampatti at about 7.45 p.m., the driver of the bus drove the bus in a rash

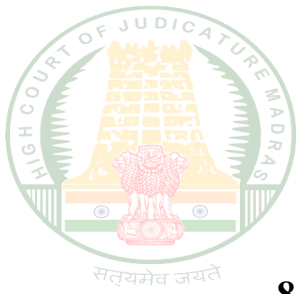


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and negligent manner, the deceased, who was travelling near the rear footboard, fell down through the foot steps and sustained fatal injuries and died on the way to the hospital. FIR was registered against the driver of the bus by Mannachanallur Police Station. The deceased was working as a tailor and was earning Rs.30,000/- p.m. Hence, the petitioners, who are the dependants of the deceased Sekar, filed the claim petition seeking compensation of Rs.50,00,000/-.

6.The respondent/Transport Corporation objected the claim petition by contending that the deceased Sekar attempted to get down through the rear footboard in slow moving bus in spite of warning given by the conductor and thereby invited the accident on his own. The driver of the respondent's bus is not responsible for the accident. Therefore, the petitioners are not entitled to any claim from the respondent.

7.Before the Tribunal, both side adduced oral and documentary evidence. The petitioners examined three witnesses as P.W.1 to P.W.3 and marked 16 documents as Ex.P.1 to Ex.P.16. On the respondent's side, the driver of the bus was examined as R.W.1 and marked Ex.R.1 & Ex.R.2 and in addition Aadhaarcad of P.W.3 was marked as Ex.X.1.



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8. After hearing both sides and after considering the evidences, the Tribunal held negligence on both the driver & conductor of the vehicle and the deceased, fixing negligence with ratio of 75% : 25%. The Tribunal has arrived total compensation of Rs.33,31,800/- and after deducting 25% towards contributory negligence awarded net compensation of Rs.24,98,850/- to the petitioners with interest and cost.

9. Aggrieved by the said award, the appellant/respondent has preferred this Civil Miscellaneous Appeal.

10. Heard both sides and perused the records in this Civil Miscellaneous Appeal.

11. The learned counsel appearing for the appellant/respondent has argued that the deceased, who travelled in the bus by standing near rear foot board tried to jump out of the bus as the house of the deceased was nearby while the bus was being driven at a slow speed. In fact, there is no bus stop near the accident place. The FIR was also closed as "mistake of fact". The Tribunal has not considered these aspects and fixed 75% liability upon the appellant's driver instead of fixing 50-50 liability. The Tribunal erred in



fixing major portion of 75% negligence against the driver of the appellant's bus.

12. The learned counsel for the claim petitioners/respondents herein has contended that the Tribunal, after considering the FIR and the evidence adduced by both sides, correctly fixed the negligence as 75% + 25%. The appellant's side has not stated anything to show that how the closure of FIR as mistake of fact prevents the claimants from claiming compensation, when the accident was happened from the moving bus of the appellant. The Tribunal has correctly appreciated the evidence and also properly fixed the liability as 75% +25%, considering the rulings relied on by the claimants. There is no challenge upon fixing the notional income of the deceased. Moreover, the appellant deposited the entire amount of compensation, which implies that the appellant has admitted the liability fixed by the Tribunal. Therefore, the compensation awarded by the Tribunal warrants no interference and the Civil Miscellaneous Appeal is liable to be dismissed.

13. On hearing both sides and on perusal of the records, it is clear that the accident took place while the deceased was travelling in the appellant's bus bearing registration No.TN 45 N 3353. On perusal of the evidence of P.W.3 and R.W.1 and also on perusal of the order of the Tribunal, it is clear



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that the deceased was standing near the rear foot board, intending to alight at the next designated bus stop after a curved road, at the time, the driver of the bus had driven the bus in a rash and negligent manner. On perusal of records, although the FIR registered against the driver of the appellant's bus was closed as "mistake of fact", the bus was driven on a curved road was also mentioned in the final report and the same was also evidenced by P.W3 and R.W.1. So, there is a greater negligence on the part of the driver of the bus, as well as contributory negligence on the part of deceased. The Tribunal has correctly fixed the negligence as 75% + 25% relying on the rulings produced by the claimants' side reported in **2023 (1) TN MAC 9 (SC) in Rajwati @ Rajjo** case rendered by the **Hon'ble Supreme Court** and **2019 (1) TN MAC 246 in Shanthi vs. ICICI Lombard** case rendered by the **High Court of Madras**. The appellant's side has not produced any contra evidence for fixing negligence. So, there is nothing wrong with fixing 75% + 25% negligence by the Tribunal and the same is held correct. Therefore, this Court is of the considered view that the negligence concluded by the Tribunal is legally sustainable and requires no interference.

14. In respect of compensation, the Tribunal determined the same by fixing notional income at Rs.6,500/- p.m. based on the settled proposition of law in **2014 (1) TN MAC 459 SC in Syed Sadiq case** and this Court's



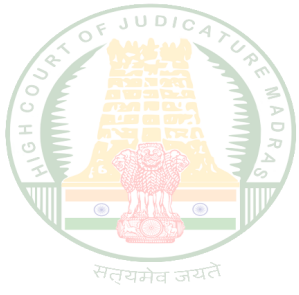
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verdict in **Andal case** reported in **2019 (1) TN MAC 54 (DB)** by applying the cost inflation index. There is no dispute raised regarding the age of the deceased as 37 years at the time of accident. Except the rate of interest, nothing was challenged by the appellant regarding quantum of compensation. It is pertinent to note that the entire compensation amount has already been deposited by the appellant during the pendency of the appeal. Therefore, the compensation awarded by the Tribunal is held correct and the same is not liable to be set aside.

15. In the result, this Civil Miscellaneous Appeal is dismissed and the award, dated 08.01.2025 passed in M.C.O.P.No.134 of 2022 on the file of the Motor Accident Claims Tribunal/Special District Judge No.II to deal with MCOP Cases, Tiruchirappalli is confirmed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

26.02.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

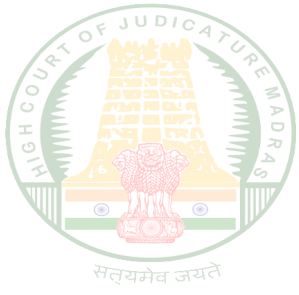


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To

- 1.The Motor Accident Claims Tribunal/
Special District Judge No.II to deal with MCOP Cases,
Tiruchirappalli.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Judgment made in
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