

C.M.A(MD)No.780 of 2023 & Cros.Obj(MD)No.43 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2026

CORAM:

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**C.M.A(MD)No.780 of 2023 &
Cros.Obj(MD)No.43 of 2025**

and

C.M.P(MD)Nos.10889 of 2023 & 13919 of 2025

1.C.M.A(MD)No.780 of 2023:

The Managing Director,
Tamil Nadu State Transport Corporation,
Ranithottam, Nagercoil,
Agasteeswaram Taluk,
Kanyakumari District.

... Appellant/2nd Respondent

-VS-

1.S.Milling Tania
2.Minor N.Darshan
3.A.Leela Bai

... Respondents 1 to 3/Petitioners

4.S.Krishnan

... 4th Respondent/1st Respondent

(Minor R2 represented by R1)



C.M.A(MD)No.780 of 2023 & Cros.Obj(MD)No.43 of 2025

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the award passed in M.C.O.P.No. 25 of 2019 dated 21.03.2023 on the file of the Motor Accident Claims Tribunal cum 1st Additional District Court, Nagercoil.

For Appellant : Mr.S.Micheal Heldon Kumar

For R – 1 to R - 3 : Mr.I.Robert Chandrakumar

2.Cros.Obj(MD)No.43 of 2025:

1.S.Milling Tania
2.Minor N.Darshan
3.A.Leela Bai ... Petitioners/Respondents 1 to 3

-VS-

1.The Managing Director,
Tamil Nadu State Transport Corporation,
Ranithottam, Nagercoil,
Agasteeswaram Taluk,
Kanyakumari District. ... 1st Respondent/Appellant

2.S.Krishnan ... 2nd Respondent/4th Respondent

(Minor P2 represented by P1)

PRAYER: Cross Appeal filed under Order 41 Rule 22 of C.P.C r/w Section 173 of the Motor Vehicle Act, 1988, against the Judgment



C.M.A(MD)No.780 of 2023 & Cros.Obj(MD)No.43 of 2025

and Decree passed in M.C.O.P.No.25 of 2019 dated 21.03.2023 on the file of the Motor Accident Claims Tribunal cum 1st Additional District Court, Nagercoil.

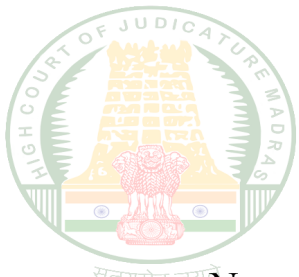
For Appellants : Mr.I.Robert Chandrakumar

COMMON JUDGMENT

**(Judgment of the Court was delivered by
G.K.ILANTHIRAIYAN, J.)**

C.M.A(MD)No.780 of 2023 has been filed by the appellant/Transport Corporation, challenging the award passed in M.C.O.P.No.25 of 2019, dated 21.03.2023, on the file of the Motor Accident Claims Tribunal cum 1st Additional District Court, Nagercoil.

2.Cross Objection(MD)No.43 of 2025 has been filed by the respondents 1 to 3, seeking for enhancement of the award passed in M.C.O.P.No.25 of 2019, dated 21.03.2023, on the file of the Motor Accident Claims Tribunal cum 1st Additional District Court,



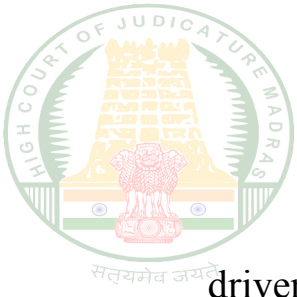
C.M.A(MD)No.780 of 2023 & Cros.Obj(MD)No.43 of 2025

Nagercoil.
WEB COPY

3.Both the appeals are arising out of the same award and as such, a common order is passed.

4.For the sake of convenience and brevity, the parties hereinafter will be referred to as per their status / ranking in C.M.A(MD)No.780 of 2023.

5.The respondents 1 to 3 are the claimants and legal representatives of the deceased C.Niranjan. They filed a claim petition seeking compensation of Rs.1,75,00,000/- on the grounds that on 17.11.2015, at about 08.00 p.m., the deceased was driving his Mahindra Bolero Car bearing Registration No.TN-AX-5679 from Tirunelveli to Nagercoil along the National Highways road near Melapalayam, travelling from north to south. The bus, bearing Registration No.TN-74-N-1299, owned by the appellant, was being



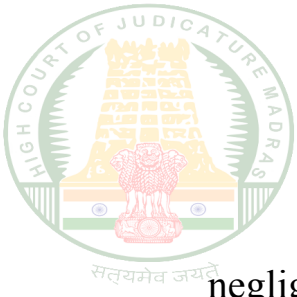
C.M.A(MD)No.780 of 2023 & Cros.Obj(MD)No.43 of 2025

WEB COPY

driven by the fourth respondent in a rash and negligent manner and dashed the deceased's car. As a result, the car was thrown out and the deceased sustained grievous injuries, ultimately leading to his death. On the complaint, the Inspector of Police, Traffic Investigation Wing, Tirunelveli City registered an F.I.R in Crime No.299 of 2015 for the offence punishable under Section 304A of I.P.C. After completion of the investigation, the Investigating Officer filed a final report as against the fourth respondent.

6.In order to substantiate their claim, the respondents 1 to 3 examined P.W.1 and P.W.2 and marked Exs.P1 to P22. On the side of the appellant herein, they examined R.W.1 and marked Ex.R.1 and Ex.R.2.

7.On perusal of the oral and documentary evidence, the Tribunal concluded that the accident occurred solely due to the rash and negligent driving of the fourth respondent and fixed the entire

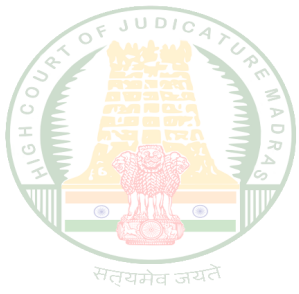


C.M.A(MD)No.780 of 2023 & Cros.Obj(MD)No.43 of 2025

WEB COPY

negligence on the part of the fourth respondent. Therefore, the appellant, being the owner of the bus, was held liable to pay compensation. Accordingly, the Tribunal awarded compensation to the tune of Rs.1,68,30,000/-. Aggrieved by the same, the appellant/Transport Corporation has filed the present appeal.

8.The learned counsel appearing for the appellant submitted that the deceased was under the influence of alcohol and had driven the car in a rash and negligent manner, thereby causing accident. The post-mortem report, marked as Ex.P.4, clearly shows that the stomach of the deceased contained 640 milligrams of ethyl alcohol and in the intestine, the blood contained 420 milligrams of ethyl alcohol. Therefore, it is evident that the deceased consumed alcohol and drove the vehicle. Hence, the Tribunal ought not to have fastened the entire liability on the part of the fourth respondent.



C.M.A(MD)No.780 of 2023 & Cros.Obj(MD)No.43 of 2025

WEB COPY

9.The learned counsel appearing for the appellant further submitted that the accident occurred at a location where three barricades were placed. After crossing these barricades, the deceased drove the vehicle in a speedy manner and dashed against the bus. In fact, the bus did not sustain damage except on the front right-hand side corner. However, the deceased vehicle was completely damaged, which indicates that the deceased was driving his car in a speedy manner and dashed against the bus. Therefore, the accident occurred due to the negligent driving of the deceased and the respondents 1 to 3 are not entitled to any compensation.

10.Per contra, the learned counsel appearing for the respondents 1 to 3 submitted that after crossing the three barricades, the deceased car was hit by the fourth respondent's bus. It is not at all possible for anyone to drive at high speed in an area where three barricades were placed. The accident occurred after the deceased had crossed the barricades. Therefore, the car was driven by the



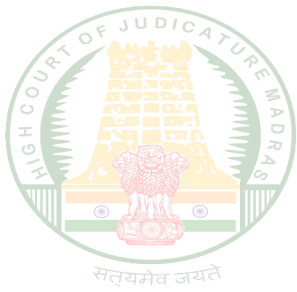
C.M.A(MD)No.780 of 2023 & Cros.Obj(MD)No.43 of 2025

WEB COPY

deceased in a slow and steady manner, and that too on the left hand side of the road. The fourth respondent drove the bus on the right hand side and hit the deceased's car in a speedy manner. As a result, the deceased's vehicle was thrown out, causing the deceased to sustain grievous injuries. Hence, the Tribunal rightly concluded that the accident occurred solely due to the rash and negligent driving of the fourth respondent and awarded compensation.

11.Heard the learned counsel appearing on either side and perused the materials placed on record.

12.The only ground raised by the appellant is that the deceased was under the influence of alcohol at the time of the accident. He mainly relied upon Ex.P.4. A perusal of Ex.P.4 reveals the following:



WEB COPY



C.M.A(MD)No.780 of 2023 & Cros.Obj(MD)No.43 of 2025

“Stomach and contents: Detected six hundred and four (604.0) milligrams of ethyl alcohol.

Intestine and contents: Detected four hundred and twenty (420.0) milligrams of ethyl alcohol.

Liver and kidney: Detected five hundred and fifty two (552.0) milligrams of ethyl alcohol.

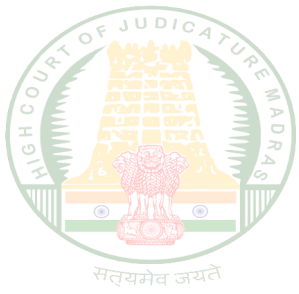
Blond Detected sixty nine (69.0) milligrams % W/V of ethyl alcohol.”

13.It is true that the deceased was under the influence of alcohol when he drove the car. It is relevant to extract the provision under Section 185 of the Motor Vehicles Act, 1988, which reads as follows:

"185. Driving by a drunken person or by a person under the influence of drugs.-

Whoever, while driving, or attempting to drive, a motor vehicle -

(a) has, in his blood, alcohol exceeding 30 mg. per 100 ml. of blood detected in a test by a breath analyser; or



WEB COPY



C.M.A(MD)No.780 of 2023 & Cros.Obj(MD)No.43 of 2025

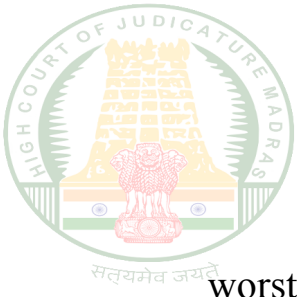
(b) is under the influence of a drug to such an extent as to be incapable of exercising proper control over the vehicle.

shall be punishable for the first offence with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both; and for a second or subsequent offence, if committed within three years of the commission of the previous similar offence, with imprisonment for a term which may extend to two year, or with fine which may extend to three thousand rupees, or with both.

Explanation - For the purposes of this section, the drug or drugs specified by the Central Government in this behalf, by notification in the Official Gazette, shall be deemed to render a person incapable of exercising proper control over a motor vehicle.”

14.Thus, it is clear that if a person drives a vehicle under the influence of alcohol and the alcohol level exceeds 30 milligrams per 100 ml of blood, the person shall be punishable. Therefore, at

10/16

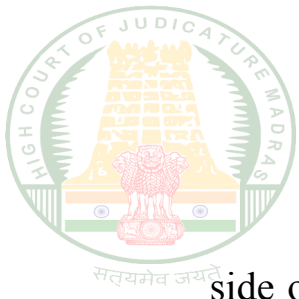


C.M.A(MD)No.780 of 2023 & Cros.Obj(MD)No.43 of 2025

WEB COPY

worst, the deceased could have been punished. However, he is no more.

15.Insofar as the negligence is concerned, merely because the deceased drove the car under the influence of alcohol, it cannot be concluded that the accident occurred solely due to the negligence of the deceased. The circumstances in which the accident took place clearly prove that the fourth respondent drove the bus in a rash and negligent manner, at a high speed, and hit the deceased's car. The rough sketch, marked as Ex.P.3, clearly shows that the accident occurred at Tea Junction. In order to prevent speedy vehicles, there were three barricades. The first barricade was located on the left hand side of the road, the second barricade on the right hand side and the third barricade on the left hand side. When the deceased's car was coming from north to south, he crossed all three barricades. After crossing all three barricades, as he was proceeding towards the southern side, the fourth respondent drove the bus on the right hand



C.M.A(MD)No.780 of 2023 & Cros.Obj(MD)No.43 of 2025

WEB COPY

side of the car and dashed against the deceased's car. This indicates that even before reaching the barricade area, the fourth respondent was driving the bus in a rash and negligent manner, at high speed and dashed against the car, which was driven by the deceased on its extreme right hand side.

16.That apart, an F.I.R has been registered as against the fourth respondent based on the complaint. After completion of the entire investigation, the Investigating Officer filed a final report charging the fourth respondent for an offence punishable under Section 304A of I.P.C, which was marked as Ex.P.7. Therefore, the Tribunal rightly concluded that the accident had occurred only due to the negligence on the part of the fourth respondent. One of the eye witnesses, examined as P.W.2, categorically deposed that while driving his car just behind the deceased's car, he witnessed the accident and observed that the fourth respondent was driving the bus rashly and negligently, at high speed, and dashed against the



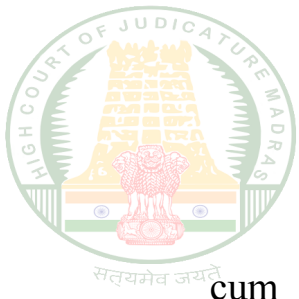
C.M.A(MD)No.780 of 2023 & Cros.Obj(MD)No.43 of 2025

WEB COPY

deceased's vehicle, which had already crossed three barricades.

Though the appellant vehemently contended that the accident occurred due to the rash and negligent driving of the deceased, the appellant failed to produce any piece of evidence to substantiate the claim. When there is no evidence suggesting any negligence on the part of the deceased, merely the post mortem report showing that the deceased had consumed alcohol cannot lead to a definite conclusion that the deceased was driving rashly and negligently. There was absolutely no negligence on the part of the deceased and the fourth respondent was solely negligent in causing the accident. Therefore, the Tribunal rightly concluded that the accident occurred due to the negligence on the part of the fourth respondent and awarded compensation. Hence, it does not require any interference by this Court and the Civil Miscellaneous Appeal is liable to be dismissed.

17.In fine, the award passed in M.C.O.P.No.25 of 2019 dated 21.03.2023 on the file of the Motor Accident Claims Tribunal



C.M.A(MD)No.780 of 2023 & Cros.Obj(MD)No.43 of 2025

सत्यमेव जयते
WEB COPY

cum 1st Additional District Court, Nagercoil, is confirmed.

Accordingly, C.M.A(MD)No.780 of 2023 is dismissed.

18.Cross Objection (MD)No.43 of 2025 is also dismissed, as the Tribunal rightly awarded compensation under all heads, amounting to the tune of Rs.1,68,30,000/-.

19.The appellant is directed to deposit the entire award amount along with interest and costs as awarded by the Tribunal, less the amount already deposited, to the credit of the claim petition, within a period of six weeks from the date of receipt of a copy of this judgment, if not already deposited. On such deposit, the respondents 1 and 3/major claimants are permitted to withdraw their respective shares along with proportionate interest and costs by filing a formal permission petition before the Tribunal. The share of the second respondent/minor claimant shall be deposited in a Nationalised Bank in a fixed deposit until he attains majority. The



C.M.A(MD)No.780 of 2023 & Cros.Obj(MD)No.43 of 2025

WEB COPY

interest accruing on such deposit is permitted to be withdrawn by the 1st respondent/mother of the minor claimant, once in three months directly from the bank. No costs. Consequently, connected Miscellaneous Petitions are closed.

**[G.K.I.J.] & [R.P.J.,]
09.01.2026**

NCC :Yes/No

Index :Yes/No

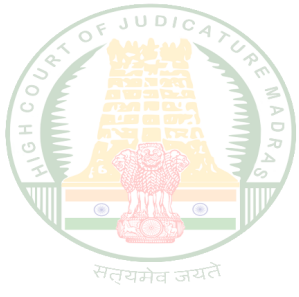
Internet :Yes

ps

To

1.The Motor Accident Claims Tribunal cum
1st Additional District Court,
Nagercoil.

2.The Record Keeper (Vernacular Records),
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A(MD)No.780 of 2023 & Cros.Obj(MD)No.43 of 2025

G.K. ILANTHIRAIYAN, J.
AND
R. POORNIMA, J.

ps

**C.M.A(MD)No.780 of 2023 &
Cros.Obj(MD)No.43 of 2025**

09.01.2026