

C.M.A(MD)No.48 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **21.01.2026**

Pronounced on : **24.02.2026**

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.A(MD)No.48 of 2020

and

C.M.P(MD)Nos.786 of 2020 and 10458 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation,
Karaikudi.

...Appellant/2nd Respondent

Vs.

1. Barakath Nisha,
W/o.Late.Murugapandi @ Mohamed Farook
D.No.69/7, Indhira Nagar,
Ramanathapuram.

...1st Respondent/Petitioner

2.Karuppaiah,
S/o.Eliyamandan,
Seyyalur, Paramakudi,
Ramanathapuram District.

...2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act 1988, to set aside the impugned award passed in MCOP.No.26 of 2018 on the file of the MACT (Principal District Court), Ramanathapuram, dated 17.07.2019 and pass any other order deem fit to the facts and circumstances of the case.



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C.M.A(MD)No.48 of 2020

For Appellant : Mr.P.M.Vishnu Varthanan
For R1 : Mr.S.A.Ajmal Khan
For R2 : No Appearance

JUDGMENT

This Civil Miscellaneous Appeal is preferred against the Award, dated 17.07.2019 passed in M.C.O.P.No.26 of 2018 by the Motor Accident Claims Tribunal/Principal District Court, Ramanathapuram.

2.The second respondent in M.C.O.P.No.26 of 2018 is the appellant herein. The petitioner/claimant is the 1st respondent herein, who filed the claim petition in M.C.O.P.No.26 of 2018. The first respondent in M.C.O.P.No.26 of 2018 is the father of the deceased, who is the second respondent herein.

3.For the sake of convenience, the parties as arrayed in M.C.O.P.No.26 of 2018 are adopted hereunder.

4. The brief facts of the case:

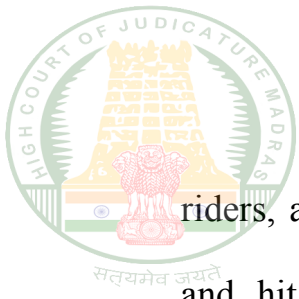
On 29.09.2016 at about 3.40 p.m., the deceased Murugapandi @ Mohammed Farook was riding in a two wheeler bearing registration



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number TN 65 AB 3619 along with his mother and brother as pillion riders along the road in front of Ramanathapuram Janardhan Maaligai from east to west at a moderate speed, observing with traffic rules. Whiles, the second respondent/Transport Corporation bus bearing registration No.TN 63 N 1697, driven by its driver in a rash and negligent manner from the opposite side and dashed against the two wheeler. Due to the impact, the rider, Murugapandi @ Mohammed Farook and his mother were thrown away and sustained fatal injuries and died. A case was registered in Crime No.426 of 2016 U/s.279, 337 & 304(A) of the IPC against the driver of the second respondent's bus by the Ramanathapuram Town Police Station. At the time of his death, the deceased Murugapandi @ Mohammed Farook was working as an electrician in Saudi and was earning Rs.30,000/- after his personal expenses. The petitioner is the wife of the deceased Murugapandi @ Mohammed Farook. The first respondent is the father of the deceased, Murugapandi @ Mohammed Farook. The petitioner is depending on the income of the deceased Murugapandi @ Mohammed Farook. Hence, the petitioner filed the claim petition seeking compensation of Rs.25,00,000/-.

5.The 2nd respondent/Transport Corporation objected the claim petition by contending that the deceased Murugapandi @ Mohammed Farook, was riding the two wheeler without wearing helmet and along with two pillion

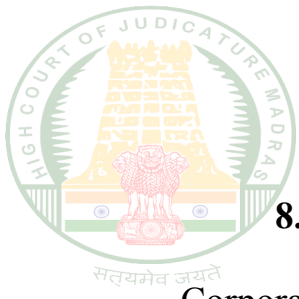


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riders, attempted to take over a moving vehicle from the opposite direction and hit against the second respondent's bus. The driver of the second respondent was driving the bus by observing traffic rules at a moderate speed. The driver of the second respondent's bus is not responsible for the accident. The deceased Murugapandi @ Mohammed Farook was alone responsible for the accident. Hence, the second respondent is not liable to pay any compensation to the petitioner.

6.Before the Tribunal, both sides adduced oral and documentary evidence. The petitioner examined two witnesses as P.W.1 and P.W.2 and marked seven documents as Ex.P.1 to Ex.P.7. On the second respondent's side, the driver of the bus was examined as R.W.1, however, no document was marked.

7.After hearing both sides and after considering the evidences, the Tribunal held that the accident was taken place due to negligence on the part of the driver of the second respondent's bus and awarded compensation of Rs.13,70,000/-, out of which the petitioner is entitled to Rs.11,00,000/- and first respondent is entitled to Rs.2,70,000/- with interest and cost, by its order, dated 17.07.2019.



8. Aggrieved by the said award, the 2nd respondent/Transport Corporation has preferred this Civil Miscellaneous Appeal.

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

10. The learned counsel appearing for the appellant/2nd respondent has mainly argued that the Tribunal has failed to consider the fact that the rider of the two wheeler/deceased Mohammed Farook did not possess any valid driving license and was also not wearing helmet at the time of accident. It is the main contention of the counsel for the appellant/2nd respondent that the accident took place due to rash and negligent riding of the deceased. Hence, the appellant/2nd respondent is not liable to pay any compensation. The learned counsel further argued that the Tribunal has failed to consider the aspect of contributory negligence as the rider, along with two pillion riders, were travelling on a two wheeler without following traffic rules and regulations.

11. Per contra, the learned counsel for the 1st respondent/petitioner submitted that the Tribunal has elaborately discussed the matter on the basis of evidence of P.W.1 and P.W.2, along with FIR & charge sheet filed against



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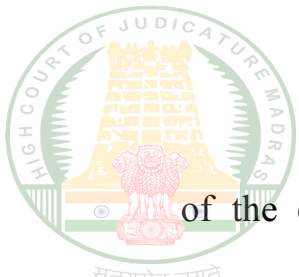
the driver of the second respondent's bus and correctly fixed negligence on the driver of the second respondent's bus. P.W.2 is the independent witness as well as eye witness to the occurrence. The second respondent has not adduced any evidence to prove that the accident happened due to the negligence of the deceased. It is evident that the accident was happened due to the rash and negligent driving of the driver of the second respondent's bus. For the sake of argument, the learned counsel further contended that mere the act of driving without a driving license by itself, could not lead to an assumption of contributory negligence and relied on decisions of this Court reported in **2024 (1) TN MAC 768** in the **Renuga case** and **2024 (2) TN MAC 453** in **Rajendiran case**.

12.On hearing both sides and on perusal of records, it is clear that in the accident, the appellant/2nd respondent's bus, coming from the opposite direction and hit against the two wheeler. It is a general settled principle that when two vehicles involved in accident, the biggest and larger vehicle is to be held responsible than the smaller one. As per evidence adduced before the Tribunal, it is clear that FIR was registered against the driver of the second respondent's bus and charge sheet was also filed against the driver of the bus. No contra material was placed by the second respondent. The second respondent's driver has not lodged any police complaint against the deceased,



alleging that he had ridden the two wheeler in a rash and negligent manner, in violation of traffic rules. The Tribunal has properly appreciated the evidence of eye witness P.W.2 along with other exhibits, and correctly concluded that the accident happened due to the negligence on the part of the driver of the second respondent's bus.

13. So far as contributory negligence is concerned, the second respondent contended that the deceased without a helmet & a valid driving licence has ridden the two wheeler along with two pillion riders. On perusal of the records, it is evident that the second respondent has not placed any document to substantiate the contention. As per the various decisions of the Hon'ble Supreme Court and by this Court, it is settled that even if a rider involved in the accident has ridden the vehicle along with pillion riders, contributory negligence would not be fixed until it is proved that the accident was taken place due to rash and negligent driving on the part of the rider. Therefore, the argument put forth by the 1st respondent/petitioner's counsel relying on decisions reported in **2024 (1) TN MAC 768 in Renuga case** and **2024 (2) TN MAC 453 in Rajendiran case** cannot be brushed aside. In this case, admittedly, no documentary evidence was adduced by the second respondent that due to two wheeler rider's negligent riding, the accident was taken place and hence, this contention is untenable. Therefore, this Court is



of the considered view that the finding of negligence concluded by the Tribunal is legally sustainable and there is no need to interfere in it.

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14.The next contention raised by the appellant/2nd respondent transport corporation is that the Tribunal has fixed the notional income of the deceased as Rs.10,500/- p.m. in the absence of any documentary proof of income. The Tribunal ought to have fixed the notional income at Rs.6,000/- p.m. and so the compensation awarded by the Tribunal has to be set aside.

15.It was submitted by the 1st respondent/claimant's side that the Tribunal erred in law and on facts by failing to fix the notional income at Rs.14,000/-. It is further submitted by the learned counsel for the 1st respondent/claimant that this Court can enhance the compensation amount by fixing higher notional income to ensure the award of just compensation and placed reliance on the order of this Court reported in **2025 (2) TN MAC 528 in the Dhanalakshmi Case and 2025 (1) TN MAC 280 in Manoharan case.**

16.On perusal of records, the Tribunal fixed the income of the deceased considering the settled proposition of law in **Sarala Verma case (2017 (2) TN MAC 75 (A) SCC) and Pranay Sethi case (CDJ 2017 SCC 1220)** the



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notional income of the deceased was fixed at Rs.7,500/- to which 40% was added towards future prospects totalling Rs.10,500/-. In view of the settled proposition of law in **Pranay Sethi** Case reported in **2017 (2) TNMAC 609 (SC)**, 40% has to be added towards future prospects of the deceased person who was self employed or was on fixed income and who was below the age of 40 years. After deducting personal expenses of 1/3 at Rs.3,500/-, the Tribunal has correctly fixed Rs.7,000/- p.m. (Rs.10,500/- minus Rs.3,500/-) as loss of income towards the 1st respondent/claimant.

17. In this case, the deceased was aged 36 years as per Ex.P.2 - Post mortem certificate and there is no dispute in it. The multiplier '15' adopted by the Tribunal is legally correct, considering the age of the deceased. Accordingly, the loss of dependency is calculated as Rs.7,000/- x 12 x 15 = Rs.12,60,000/-. Furthermore, the Tribunal awarded Rs.15,000/- towards the loss of estate and Rs.15,000/- towards funeral expenses. The Tribunal has also awarded Rs.40,000/- towards filial consortium to the 2nd respondent/ 1st respondent (father of deceased), which is not disputed by both sides. The next contention advanced by the learned counsel the 1st respondent/claimant is that this Court can fix the notional income at Rs.14,000/- and enhance the compensation. Admittedly, there is no cross appeal or appeal filed against the award by the 1st respondent/claimant.



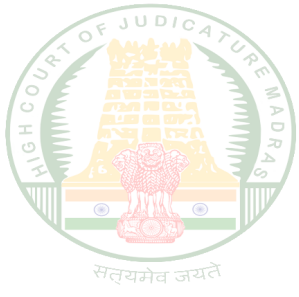
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So, this argument of the learned counsel for the 1st respondent/claimant is not considered. Regarding subsequent interest, no material has been placed before this Court by the appellant/2nd respondent that the same is excessive. Thus, this Court holds that the award passed by the Tribunal does not warrant any interference. The apportionment of the compensation allowed by the Tribunal is correct as there is no irregularity. Therefore, the compensation awarded by the Tribunal is hereby confirmed and the same is not liable to be set aside.

18.In the result, this Civil Miscellaneous Appeal is dismissed and the award, dated 17.07.2019 passed in M.C.O.P.No.26 of 2018 by the Motor Accident Claims Tribunal/Principal District Court, Ramanathapuram is confirmed. No costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

24.02.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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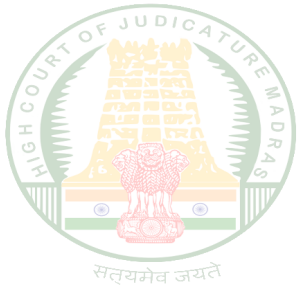
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To

- 1.The Motor Accident Claims Tribunal/
Principal District Court,
Ramanathapuram.
- 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
C.M.A(MD)No.48 of 2020
and
C.M.P(MD)Nos.786 of 2020 and 10458 of 2022

24.02.2026