BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : **06.04.2026**

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

C.M.A.(MD).No.445 of 2026

The Managing Director,
Tamil Nadu State Transport Corporation,
Madurai Limited,
Dindigul. ... Appellant / 1st Respondent

Vs.

1.Mariyammal
2.Soundarya
3.Mathan Kumar
4.Rasu Mallayagounder
5.Velumani
6.R.Rajendran ... Respondents 1 to 5 / 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.662 of 2022 dated 17.02.2025 on the file of the Motor Accidents Claims Tribunal (Special Subordinate Court), Dindigul and allow the above Civil Miscellaneous Appeal.

For Appellants : Mr.S.Micheal Heldon Kumar

For R1 to R3 & R5 : Mr.M.Manivelpandian

J U D G M E N T

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

The appellant, being the first respondent in M.C.O.P. No. 662 of 2022 on the file of the learned Special Subordinate Judge (Motor Accident Claims Tribunal), has preferred the present appeal challenging the award dated 17.02.2025, primarily on the ground relating to negligence.

2.Fact of the case:

2.1. The case of the claimants is that the deceased, namely Pitchamani, on 31.08.2021 at about 7.00 p.m., while riding his two-wheeler bearing Registration No. TN57TE6383 on the Usilampatti–Patelangur Road, near Sandhai Division, was hit by a bus belonging to the appellant Transport Corporation bearing Registration No. TN57N2229, which came from the opposite direction in a rash and negligent manner. Due to the impact, the deceased sustained grievous injuries. He was initially admitted to the Government Hospital, Usilampatti, and thereafter referred to Government Rajaji Hospital, Madurai, for intensive treatment. Despite treatment, he succumbed to the injuries.

2.2. The dependents of the deceased, who are the claimants, filed a claim petition seeking compensation of Rs. 80,00,000/-. The appellant Transport

Corporation filed a counter statement denying the manner of the accident, negligence on the part of its driver, and also disputing the quantum of compensation claimed.

2.3. In order to substantiate their case, the claimants examined P.W.1 to P.W.3 and marked Exs. P1 to P13. On the side of the appellant, the driver was examined as R.W.1 and no documentary evidence was adduced.

3.**Finding of the Tribunal:**

3.1. The Tribunal, upon appreciation of the oral and documentary evidence, including the testimony of P.W.1 and P.W.2, the First Information Report, and the departmental proceedings initiated against the driver of the appellant Corporation, held that the accident occurred due to the rash and negligent driving of the Corporation bus driver. However, considering the fact that the deceased was not wearing a helmet at the time of the accident, the Tribunal fixed 7% contributory negligence on the deceased and 93% on the driver of the appellant Corporation.

3.2. Further, the Tribunal fixed the monthly income of the deceased at Rs. 18,000/-, considering his age as 41 years and his avocation, and awarded a total compensation of Rs. 28,85,790/- on following heads:

Sl. No	Heads	Amount in Rs
1	Loss of Dependency	28,35,000/-
2	Loss of Estate	16,500/-
3	Loss of consortium & Love and Affection	2,20,000/-
4	Funeral expense	16,500/-
5	Transport expense	15,000/-
Total		**31,03,000/-**
7% Contributory Negligence		**2,17,210/-**
Gross Total		**28,85,790/-**

4.Submission of the learned counsel for the appellant:

Assailing the said award, the learned counsel for the appellant Transport Corporation contended that the deceased himself contributed to the accident and, in view of the admitted fact that he was not wearing a helmet, the fixation of only 7% contributory negligence is erroneous. It is contended that the Tribunal ought to have fixed at least 20% contributory negligence. It is further submitted that, in the absence of documentary proof, the fixation of monthly income at Rs. 18,000/- is excessive and not in accordance with law.

5.**Submission of the learned counsel appearing for the respondent/claimants:**

Per contra, the learned counsel for the respondents/claimants submitted

that the First Information Report was registered against the driver of the appellant bus and that P.W.1 and P.W.2 have clearly deposed regarding the negligence of the bus driver. It is further submitted that the Tribunal has rightly fixed 7% contributory negligence for non-wearing of helmet. With regard to income, it is contended that the Tribunal has fixed a reasonable notional income, taking into consideration the nature of work of the deceased, and relying upon the principles laid down in ***Syed Sadiq v. Divisional Manager, United India Insurance Co. Ltd.*** reported in ***2014 (2) SCC 735.***

6. This Court has considered the rival submissions and perused the materials available on record.

7. The following points arise for consideration of this appeal:

7.1. Whether the Tribunal was justified in fixing only 7% contributory negligence on the deceased for non-wearing of helmet, and whether the same requires enhancement?

7.2. Whether the fixation of monthly income of the deceased at Rs. 18,000/- is reasonable?

8.**Findings of this Court:**

8.1. On perusal of the evidence, it is seen that P.W.1 and P.W.2 have categorically deposed that the accident occurred solely due to the rash and negligent driving of the appellant Corporation bus. The First Information Report has also been registered against the bus driver. Further, departmental proceedings were initiated against the driver, which culminated against him.

8.2. No contra evidence has been let in by the appellant to discredit the testimony of P.W.1 and P.W.2. Nothing material has been elicited in cross-examination to doubt their version. In such circumstances, the finding of the Tribunal fixing negligence on the driver of the appellant Corporation bus is well-founded and warrants no interference.

9. **Contention regarding Non-Wearing of Helmet:**

The principal contention advanced by the learned counsel for the appellant is that the deceased was not wearing a helmet at the time of the accident and, having sustained fatal head injuries, a proportionate deduction ought to be made towards contributory negligence on account of violation of the statutory provisions under the Motor Vehicles Act. The learned Trial Judge only fixed 7% contributory negligence on the deceased. Hence, the learned counsel for the appellant sought to enhance the percentage of contributory

negligence. This contention, in the considered view of this Court, is legally untenable in the facts and circumstances of the present case. It is a well-settled principle that mere violation of statutory provisions, such as non-wearing of a helmet, does not *ipso facto* confer a right upon the *tortfeasor* to plead contributory negligence, unless it is established that such violation had a direct nexus with the occurrence of the accident. It is also pertinent to note that the object of wearing a helmet is primarily a safety measure intended to minimize or prevent the severity of head injuries. It does not, in any manner, prevent the happening of the accident. Therefore, the non wearing of a helmet cannot be construed as a causative factor for the accident itself. Though in certain earlier decisions, this Court have, in peculiar factual circumstances, applied a limited deduction towards contributory negligence on account of non-wearing of a helmet, in view of subsequent development of law by the Hon'ble Supreme Court that mere violation provision of the Motor Vehicles Act, 1988, without anything more, cannot lead to a conclusion of contributory negligence, unless it is established that his very act of riding along with two others, contributed either to the accident or to the serious impact upon the victim. *There must either be a causal connection between the violation and the accident or a causal connection between the violation and the impact of the hit upon the victim, and* it has been clarified that such an approach cannot be adopted universally. The determinative factor remains whether there was any negligence

in the manner of driving on the part of the deceased contributing to the accident. In the absence of any evidence to establish negligent riding on the part of the deceased, the question of apportioning contributory negligence on the sole ground of non-wearing of a helmet does not stand to reason. Even in cases where fatal head injuries are sustained, the same cannot automatically lead to an inference of contributory negligence. Therefore, the Tribunal has taken a balanced view in fixing 7% contributory negligence on the deceased. In the absence of any material to show that the deceased contributed to the cause of the accident, enhancement of the percentage of contributory negligence, as sought by the appellant, is not warranted.

10. **Discussion on quantum:**

10.1. Insofar as the quantum of compensation is concerned, there are specific pleadings and cogent evidence on the side of the claimants establishing that the deceased, aged 41 years, was engaged in wood contract business at the time of the accident.

10.2. The Tribunal, taking into account the date of the accident, the nature of avocation, and the evidence on record, fixed the monthly income of the deceased at Rs. 18,000/-. In this regard, the Tribunal relied upon the principles laid down in ***Syed Sadiq v. Divisional Manager, United India***

Insurance Co. Ltd. reported in ***2014 (2) SCC 735*** and ***Andal Vs. Avinav Kannan*** reported in ***2019 (1) TNMAC 54 (DB)***, which recognize the necessity of adopting a reasonable notional income in the absence of strict documentary proof. Further, P.W.3 was examined to corroborate the testimony of P.W.1. The evidence of P.W.3 clearly establishes that the deceased was engaged in wood contract work and had employed more than five persons under him. This evidence remains unshaken, as no contra evidence has been adduced on the side of the appellant Corporation. The record clearly demonstrates that the Tribunal did not pass the order on conjecture or arbitrary assumptions. Rather, the determination of income was founded on a careful appreciation of the oral evidence, duly supported by relevant precedents and considering the prevailing economic conditions, including the rising cost of living. In these circumstances, this Court finds no infirmity or perversity in fixing the monthly income of the deceased at Rs. 18,000/- and awarding Rs.28,85,790/- as total compensation.

11. **Conclusion**:

11.1. Consequently, this Court finds no merit in the contentions advanced by the learned counsel for the appellant Corporation, either with regard to negligence or the quantum of compensation.

11.2. In the result, the Civil Miscellaneous Appeal fails and is dismissed, confirming the award passed in M.C.O.P. No.662 of 2022 dated 17.02.2025 on the file of the Motor Accidents Claims Tribunal (Special Subordinate Court), Dindigul. No costs. There shall be no order as to costs.

[N.A.V.,J.] & [K.K.R.K.,J.]
06.04.2026

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

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To

1.The Motor Accidents Claims Tribunal (Special Subordinate Court),
Dindigul.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

N.ANAND VENKATESH,J.
and
K.K.RAMAKRISHNAN,J.

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Judgment made in
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