

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN
and
THE HONOURABLE MR.JUSTICE T.MATHIVANAN

C.M.A.Nos.1229, 1230 and 1231 of 2015
and
M.P.Nos.1 to 1 of 2015

The Managing Director
TNSTC Kumbakonam Division
Periyamilaguparai, Trichy-1

... Appellant/Respondent
in all the above CMAs

-Vs-

1.Thangarasu
2.Vembu

... Respondents/Petitioners
in C.M.A.No.1229 of 2015

1.Veerasamy
2.Pappathi
3.Mahesvari

... Respondents/Petitioners
in C.M.A.No.1230 of 2015

1.Rajendran
2.Mani
3.Rajkumar

... Respondents/Petitioners
in C.M.A.No.1231 of 2015

Prayer in C.M.A.No.1229 of 2015:- C.M.A., filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 25.11.2013 made in M.C.O.P.No.561 of 2010 on the file of Motor Accident Claims Tribunal, Principal District Judge, Perambalur.

Prayer in C.M.A.No.1230 of 2015:- C.M.A., filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 25.11.2013 made in M.C.O.P.No.562 of 2010 on the file of Motor Accident Claims Tribunal, Principal District Judge, Perambalur.

Prayer in C.M.A.No.1231 of 2015:- C.M.A., filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 25.11.2013 made in M.C.O.P.No.563 of 2010 on the file of Motor Accident Claims Tribunal, Principal District Judge, Perambalur.

For appellant (in all CMAs) : Mr.D.Venkatachalam

For respondents (in all CMAs) : Mr.T.Ananthasekar

COMMON JUDGMENT

(Judgment of the Court was delivered by V.RAMASUBRAMANIAN, J.)

These three appeals arise out of a common award passed by the Motor Accident Claims Tribunal, Perambalur in three claim petitions filed by the legal heirs of the deceased in a road traffic accident.

2. Heard Mr.D.Venkatachalam, learned for the appellant and Mr.Ananthasekar, learned counsel for the respondents.

3. In a road traffic accident that happened on 19.12.2009, three persons by name Pakkiyaraj, Pakkiyaraj and Mani who were travelling in a Motor Cycle and who are said to have parked their vehicle in front of a Tea Shop, were killed under the wheels of a bus belonging to Tamil Nadu State Transport Corporation. The parents of the deceased filed M.C.O.P.Nos.561, 562 and 563 of 2010 on the file of the Tribunal at Perambalur. By a common Award passed on 25.11.2013, the Tribunal awarded a compensation of Rs.8,06,000/- in one case; Rs.12,16,400/- in another case and Rs.15,93,000/- in the third case. Aggrieved by these awards, the Transport Corporation is before us.

4. The first and foremost contention of Mr.D.Venkatachalam, learned counsel for the Corporation is that when admittedly all the three deceased were travelling in a Motor Cycle, in violation of the provisions of the Motor Vehicles Act 1988 and the Rules framed thereunder, the claim for compensation on account of the death of the deceased in the accident, could not even be entertained by the Tribunal. The deceased, according to the learned counsel for the appellant, were actually in violation of the law and that therefore no negligence could be attributed to the driver of the Transport Corporation.

5. However, Mr.T.Ananthasekar, learned counsel for the respondents relies upon a decision of the Division Bench of this Court in The Branch Manager, United India Insurance Company Ltd., Vs

Uma & Others [CDJ 2010 MHC 7118], wherein a Division Bench of this Court allowed compensation overruling similar objections that three deceased were travelling in a Motor Cycle in violation of the law.

6. But a careful look at Paragraph 12 of the judgment of the Division Bench, shows that though three persons were travelling in a Motor Cycle, they were the parents and a minor boy. This is perhaps the reason as to why the Division Bench did not hold against the claimants, the illegality committed by those three persons in travelling in a single motor cycle. Therefore, the said decision cannot be taken to be an authoritative pronouncement for the proposition that even if three persons travelling in a motor cycle in violation of the law, get involved in an accident they are automatically entitled to compensation overlooking their illegal act.

7. A person attributing negligence to the driver of another vehicle should not be a violator of the law. Therefore on principle, the learned counsel for the appellant is right in projecting the case that when persons who violate law get involved in a road accident they cannot accuse the driver of another vehicle of being negligent. However on the facts and the circumstances of the case, we are unable to apply the principle in favour of the appellant. This is for the reason that according to the findings of the Tribunal, the accident occurred, not when, all the persons were riding the vehicle; The accident occurred at the time when they were taking tea in a Tea Shop. Therefore, the finding of rash and negligent driving on the part of the driver of the appellant Corporation at the time when three persons were taking tea in a Shop cannot be interfered with, on the basis of the principle of law that violators cannot claim compensation in such cases. Therefore the said objection of the learned counsel for the appellant cannot be accepted in the peculiar facts and circumstances of the case.

8. The Tribunal has recorded a clear finding of negligence on the part of the driver on the basis of the evidence on record.

9. The Tribunal has taken note of the eyewitness account narrated by P.W.4. The evidence of P.W.4, appears to be unassailable. Therefore, the finding with regard to the negligence cannot be interfered with.

10. Insofar as the quantum is concerned, it is seen that the victim, whose parents were the claimants, in the first claim petition, was held to have earned a monthly income of Rs.7,000/-. This was fixed notionally and the annual income was arrived at as Rs.84,000/-.

11. Though the learned counsel for the appellant submitted that in respect of Bachelors, the deduction of 1/3rd of the income was not proper and that one half of the income should have been deducted, we do not think that the said yardstick would be applied here. This is in view of the fact that after applying multiplier and deduction towards personal expenses, deduction of 10% towards income tax has already been made. Therefore, we find that the award of Rs.8,06,000/- as compensation in respect of a fatal accident involving a 20 year old boy, cannot be said to of a high order.

12. Insofar as the claim in the second claim petition is concerned, the deceased was employed as a Senior Personnel Manager in Lucas T.V.S. His income was found to be Rs.9,000/-, though the claimants claimed that it was Rs.15,000/- per month. The Tribunal has been very conservative in taking only Rs.9,000/- and applying a proper multiplier, the Tribunal fixed the compensation of Rs.12,16,400/- which cannot also said to be high, considering the fact that the deceased was employed as a Senior Personnel Manager in a reputed company and died at the age of 23.

13. Insofar as the third case is concerned, the deceased was aged 22 years and he was working in Singapore. Therefore, the Tribunal took the income as Rs.16,000/- and took Rs.8,000/- as his contribution to the family. On this basis, the Tribunal fixed the compensation of Rs.15,93,000/-. Therefore, this amount cannot also said to be higher, considering the fact that the deceased was aged 22 years.

14. Therefore, in fine, we find no justifiable ground to interfere with the Award passed by the Tribunal. Hence, the appeals are dismissed. The Corporation is granted 12 weeks time from the date of receipt of a copy of this order to deposit the Award amount. No costs. Consequently, connected MPs are closed.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

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To

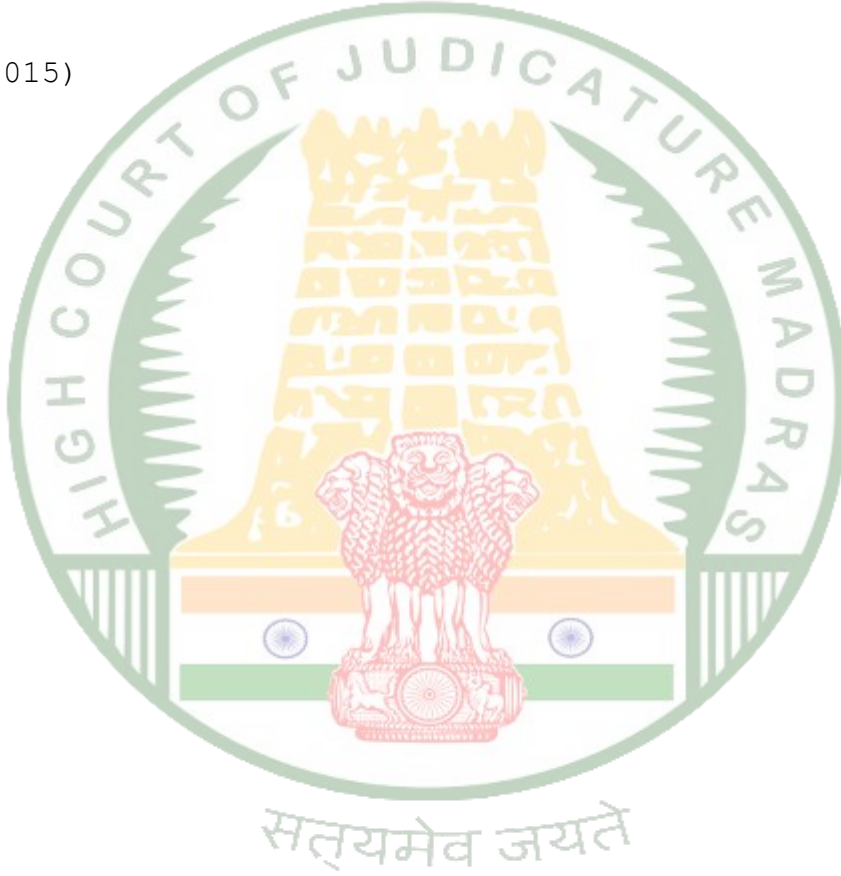
The Principal District Judge,
Motor Accident Claims Tribunal,
Perambalur.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.29907

+1cc to Mr.T.Anantha Sekar, Advocate, S.R.No.30151

C.M.A.Nos.1229, 1230 and 1231 of 2015

EV(CO)
CA(13/07/2015)



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