

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 24.08.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUDHAKAR

C.M.A. NO. 1720 OF 2015

AND

M.P. NO. 1 OF 2015

The Managing Director
Tamil Nadu State Transport
Corporation, Rangapuram
Vellore - 9.

.. Appellant/Respondent

- Vs -

1. L.Gunasekaran
2. G.Savithiri

.. Respondents/Petitioners

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 5.9.2014, passed by the Motor Accident Claims Tribunal (Subordinate Judge), Ranipet, Vellore District, made in MCOP No.262 of 2010.

For Appellant : Mr. S.Sairaman

For Respondents : Mr. C.Prabhakaran

सत्यमेव जयते
JUDGMENT

Mr.C.Prabhakaran, learned counsel accepts notice for the respondents. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents.

2. The Tamil Nadu State Transport Corporation filed the appeal challenging the award dated 5.9.2014 passed in M.C.O.P. No.262 of 2010, by the Motor Accidents Claims Tribunal (Subordinate Judge), Ranipet, Vellore District.

3. It is a case of fatal accident. On 27.7.2010, at about 7.45 p.m., when the deceased Kamalakannan, aged 20 years, was riding his two wheeler bearing Regn. No.TN-09-AP-0668 in Latheri Panamadangi Road and while proceeding near Senji Koot Road, the bus, belonging to

the appellant Transport Corporation, bearing Regn. No.TN-23-N-1576, driven in a rash and negligent manner, hit the two wheeler of the deceased and on account of the said sudden impact, the deceased fell down from the vehicle and sustained grievous injuries on his head. The deceased was taken to the Vellore Medical College Hospital and, thereafter, shifted to Apollo KH Hospital and, thereafter, to Government General Hospital at Chennai. Inspite of treatment, the deceased succumbed to the injuries and died on 14.8.2010.

4. A case was registered against the driver of the bus in Crime No.157/2010 initially under Sections 279 and 337 IPC and, on the death of the deceased, was altered into one under Section 279 and 304 (A) IPC.

5. The respondents herein, the father and mother of the deceased Kamalakannan, filed a claim for compensation in a sum of Rs.20,00,000/-. In support of the claim, the first petitioner, viz., the father of the deceased was examined as P.W.1 and one Selvam was examined as P.W.2 and Exs.P-1 to P-9 were marked, the details of which are as follows:-

Ex.P-1	-	Xerox copy of FIR dated 28.10.2010
Ex.P-2	-	Death Report dated 14.08.2010
Ex.P-3	-	Death Certificate dated 14.09.2010
Ex.P-4	-	Post-mortem certificate dated 15.08.2010
Ex.P-5	-	Discharge Summary dated 28.07.2010
Ex.P-6	-	Identity Card of the deceased
Ex.P-7	-	Legal Heirship Certificate dated 05.10.2010
Ex.P-8	-	Transfer Certificate of the deceased dated 25.01.2006
Ex.P-9	-	Medical Bills for Rs.1,35,563/=

6. The driver of the appellant/Transport Corporation bus was examined as R.W.1. No document was marked on behalf of the appellant/Transport Corporation.

7. The Tribunal based on the oral evidence of the witnesses, the F.I.R. and also taking note of the fact that no proof having been submitted to the effect that the deceased was intoxicated at the time of the accident, came to the conclusion that the bus was driven in a rash and negligent manner and, thereby, the driver of the appellant transport corporation was responsible for the accident and consequently liability was fixed on the appellant transport corporation to compensate the claimants.

8. On the above issue, learned counsel for the appellant has no serious objection with regard to the finding of the Tribunal and further no material has also been placed before this Court to come to a different conclusion than the one arrived at by the Tribunal.

9. Though identity card in relation to the employment of the deceased was marked, however, no proof with regard to the income earned was marked, though it was stated by P.W.1 in his evidence that the deceased was earning Rs.10,300/= per month and was working as Credit Assistant with Spandana Sphoorty Financial Ltd. The Tribunal, based on the oral and documentary evidence, fixed the income of the deceased at Rs.4,500/= per month of which 50% was deducted towards his personal expenses. Accordingly, adopting the multiplier of 18, the Tribunal arrived at the loss of dependency at Rs.4,86,000/= (Rs.27,000/= X 18). Towards loss of love and affection, the Tribunal awarded a sum of Rs.50,000/= to each of the respondents herein, totalling to Rs.1,00,000/=. The Tribunal also awarded a sum of Rs.10,000/= towards funeral expenses and Rs.5,000/= towards loss of estate. Towards transportation expenses, a sum of Rs.10,000/= was awarded and Rs.1,35,563/= was awarded towards medical expenses, which was substantiated with medical bills. The Tribunal, taking into consideration the employment of the deceased and his future prospects in the company in which he was employed, awarded a sum of Rs.1,00,000/= towards future prospects. In all, the Tribunal awarded a total compensation of Rs.8,46,563/= with interest at the rate of 7.5% per annum from the date of filing of the petition till the date of deposit.

10. On the face of the award, there appears to be no infirmity in the quantum of compensation granted by the Tribunal and the interest also is not excessive as the accident happened in the year 2010. The deceased died after taking treatment for 18 days in the hospital. No amount was granted towards mental shock and agony to the claimants, who are the parents of the deceased. further, no amount has been awarded towards "attender charges" and the sum awarded towards transportation is also on the lesser side. However, the respondents have not filed any appeal claiming enhancement of the amount under the above heads. In the above background, this Court is of the considered opinion that there is no reason to interfere with the amount awarded by the Tribunal.

11. Accordingly, finding no merit, this Civil Miscellaneous Appeal is dismissed. It is stated that the appellant has deposited only a sum of Rs.25,000/=, by way of demand draft, to the credit of MCOP No.262/2010, at the time of filing this appeal. The appellant is directed to the deposit the balance award amount along with interest and costs, as ordered by the Tribunal, within four weeks from the date of receipt of this order. On such deposit being made, the claimants/respondents herein are permitted to withdraw the said amount equally between them, as ordered by the Tribunal. Consequently, connected miscellaneous petition is closed. However,

in the circumstances of the case, there shall be no order as to costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

GLN

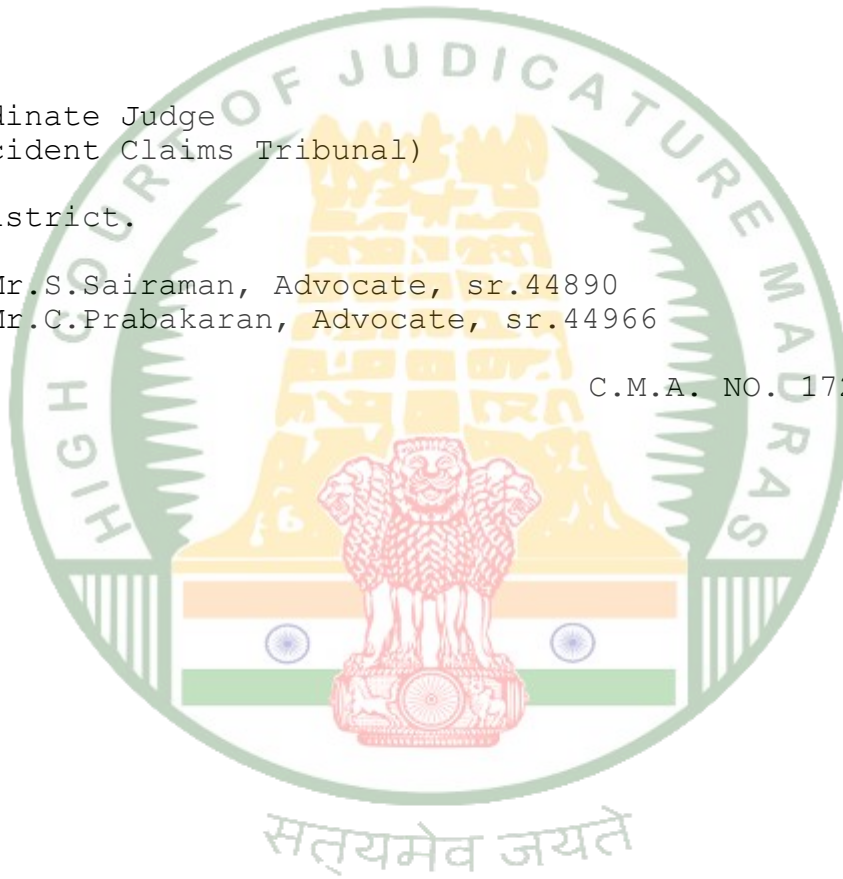
To

The Subordinate Judge
(Motor Accident Claims Tribunal)
Ranipet
Vellore District.

+1 cc to Mr.S.Sairaman, Advocate, sr.44890
+1 cc to Mr.C.Prabakaran, Advocate, sr.44966

C.M.A. NO. 1720 OF 2015

vgi co
kra 07/10



WEB COPY