

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04/09/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

C.M.A.No.1966 of 2015

and

M.P.No.1 of 2015

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

.... Appellant

Vs.

1.Dhilshathbee
2.Sharmila
3.Javeeth
4.Vajeath
5.Shkina Bee
6.Sheik Raheem @ Raheem

.... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988, against the Award made in M.C.O.P. No.77 of 2011, dated 30.03.2013, on the file of the Motor Accident Claims Tribunal, II Additional District Court, Tindivanam.

For Appellant : M/s.A.Paramasivadoss

J U D G M E N T

The short facts of the case are as follows:-

On 29.07.2009, at about 05.00 p.m., when the deceased was driving his TVS-50 moped bearing registration No.PY-01K-2710 on the ECR Road, the State Transport Corporation bus bearing registration No.TN-32N-3046 coming in the opposite direction and driven in a negligent manner dashed against him. As a result, he had succumbed to his injuries. Hence, the legal heirs of the deceased had filed claim petition against the transport corporation.

2. The Transport Corporation had filed a counter statement and resisted the claim petition. The respondent denied the contentions regarding age, income and occupation of the deceased. The respondent further submits that the accident had been committed by the deceased while he was riding his TVS-50 in a rash and negligent manner. The respondent also denied the contentions regarding age, income and occupation of the deceased.

3. On considering the averments of both sides, the Tribunal had framed two issues. On the side of the claimants, four witnesses were examined and nine documents were marked. On the side of the respondent, no witness was examined and no document was marked. The Tribunal after recording the evidence on the claimant's side and on perusing the exhibits marked by the claimants granted a sum of Rs.8,09,000/- as compensation with interest at the rate of 7.5% per annum. Against the said award, the Transport Corporation has filed the above appeal.

4. The highly competent counsel Mr.P.Paramasivadosh, appearing for the appellant, submits that the Tribunal had fixed the income of the deceased at Rs.5,400/- per month, in the absence of authenticated proof for earning. Further, in the said accident, two vehicles had dashed against each other, and as such contributory negligence has to be fastened but the Tribunal had not considered this issue. Further, all the claimants are not depending upon the income of the deceased. Hence, the very competent counsel entreats the Court to scale down the compensation amount.

5. On considering the facts and circumstances of the case and arguments advanced by the highly competent counsel for the appellant and on perusing the typed set of papers, this Court is of the view that the F.I.R had been registered against the driver of the bus as he had committed the accident by his rash and negligent driving. The claimants are the wife, children and parents of the deceased and they are six in numbers. The deceased's age was 39 years. Therefore, the quantum of compensation awarded and the fixing of negligence and liability have been decided in an appropriate manner. Hence, the above appeal is dismissed. Consequently, the award is confirmed.

6. This Court directs the Transport Corporation to deposit the entire compensation amount with accrued interest thereon, as per the findings given by the Trial Court, within a period of eight weeks from the date of receipt of this order. After such a deposit being made, it is open to the claimants to withdraw their apportioned share amount, with accrued interest thereon, after filing a memo, along with a copy of this order. This Court directs the registry to send a copy of this order to the Trial Court Advocate, Mr.D.Tamil Selvan, Tindivanam Court. Accordingly, the above appeal is dismissed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Ub

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub-Assistant Registrar

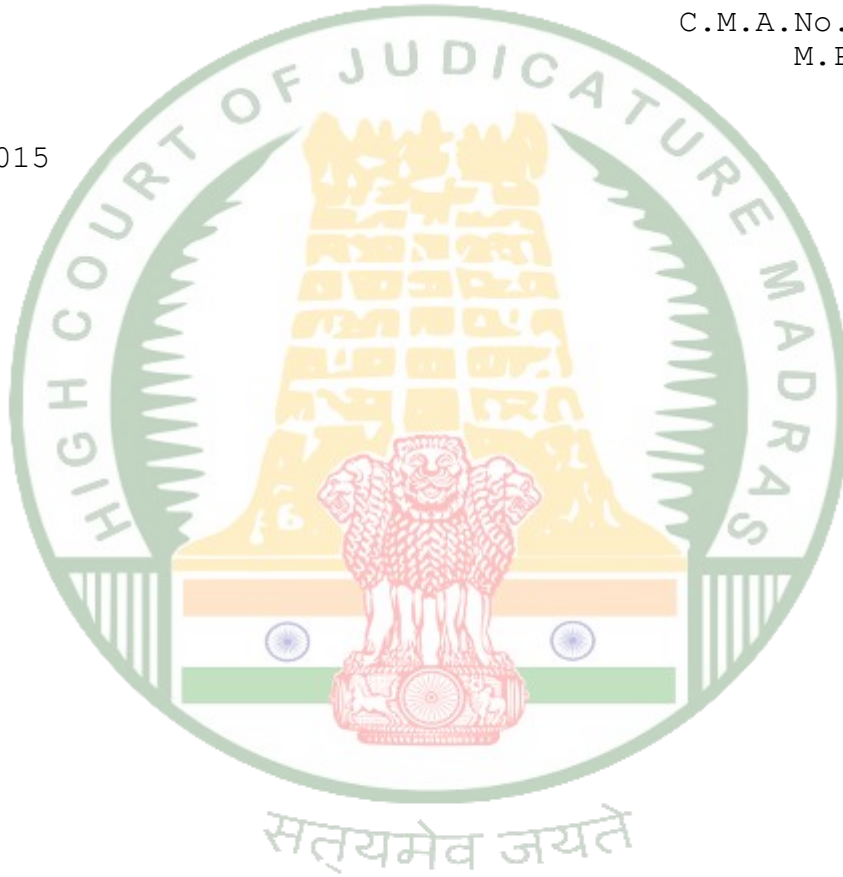
To

1. The Motor Accident Claims Tribunal,
II Additional District Court,
Tindivanam.
2. Mr.D.TamilSelvam, Advocate,
Tindivanam Court,

+1 C.C. To MR.P.Paramasivadoss, Advocate in SR.NO.48485

C.M.A.No.1966 of 2015&
M.P.No.1 of 2015

CNR (CO)
sd : 27/11/2015



WEB COPY