

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. NO.2450 OF 2015

& M.P.NO.1 OF 2015

The Managing Director,
TNSTC, Villupuram.

Appellant/Respondent

Versus

1.V.Dhanalakshmi

2.Minor Nitish Kumar Sharma Minors 2 & 3
(Rep. by their friend & Mother 1st Respondent)

3.Minor Devadarshini

4.Eswari

5.Ranganathan

Respondents/Petitioners

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 [Act IV of 1939], against the judgment and decree passed by the Motor Accident Claims Tribunal, Salem, Salem District [Additional District & Sessions Court for EC Act Cases, Salem] in M.C.O.P.No.1402 of 2011, dated 04.12.2012.

For Appellant : Mr.P.Paramasiva Doss

J U D G M E N T

The impugned judgment and decree passed by the Motor Accident Claims Tribunal, Salem, Salem District [Additional District & Sessions Court for EC Act Cases, Salem] has been questioned in the Civil Miscellaneous Appeal by the Managing Director, Tamil Nadu State Transport Corporation, Villupuram, on the sole ground that the Tribunal has wrongly fixed the notional income of the deceased at Rs.5,000/- in the absence of any acceptable material evidence to show that he was an earning member at the time of the accident.

2.Learned counsel for the appellant would submit that the Tribunal has failed to apply its mind for the purpose of computing the award amount in as much as even in fixing Multiplier 15, when the deceased was at the age of 38, it has committed an error. Based on these two grounds, the present Civil Miscellaneous Appeal is filed. So far as the first contention is concerned, it may be mentioned herein that the Tribunal has not committed any error in fixing notional monthly income of the deceased at the rate of Rs.6,500/- as contended. Because, the said issue is once and for all settled by the Hon'ble Apex Court in 2014 [1] TNMAC 459 [SC] [SYED SADIQ ETC., vs. DIVISIONAL MANAGER, UNITED INDIA INSURANCE CO.LTD.] holding that even in the absence of any income proof of the victim due to price escalation in regard to the household articles, namely, the essential commodities, it has been fixed only at Rs.6,500/. However, in the present case for arriving monthly income of the deceased in the absence of evidence the Tribunal has fixed notional monthly income at Rs.5,000/-. Therefore, the first contention that the Tribunal has committed error in fixing notional monthly income at Rs.6,000/- fails. Secondly, with regard to fixation of the correct multiplier, as per Exh.P.2 / postmortem Certificate, the age of the deceased has been taken as 38 years and the multiplier has been fixed at 15. Again applying the ratio in the case of SARLA VERMA AND OTHERS Vs. DELHI TRANSPORT CORPORATION, reported in [2009 ACJ 1298], the proper multiplier for age group 36-40 is 15 only therefore, I find no error in fixing 15 as multiplier. Besides, the Tribunal has deducted $\frac{1}{4}$ th of Rs.5,000/- towards personal expenses of the deceased since the family consisted of more than 4 members and thereby monthly income has been arrived at Rs.3,750/- and finally the amount of loss of income has been calculated as $\text{Rs.3,750} \times 12 \times 15 = \text{Rs.6,75,000/-}$. Apart from that, a sum of Rs.10,000/- was awarded for loss of consortium of the first claimant and Rs.5,000/- was awarded for funeral expenses. Therefore, for loss of life of the bread winner of the family at the age of 38, leaving young wife, minor children and the parents of the deceased awarding Rs.6,90,000/- as compensation is neither excessive nor on the higher side. Hence, the Civil Miscellaneous Appeal fails and is dismissed. However, there is no order as to costs. Consequently, connected M.P.No.1 of 2015 is closed.

3.Learned counsel for the appellant sought for six weeks time to deposit the entire compensation amount. This Court is inclined to grant four weeks to deposit the entire compensation amount in the credit of M.C.O.P.No.1402 of 2011 on the file of the Motor Accident Claims Tribunal, Salem, Salem District

[Additional District & Sessions Court for EC Act Cases, Salem],
failing which, there will an additional interest @ 6%p.a. On
such deposit, it is left to the claimants to move an application
to withdraw the said amount.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

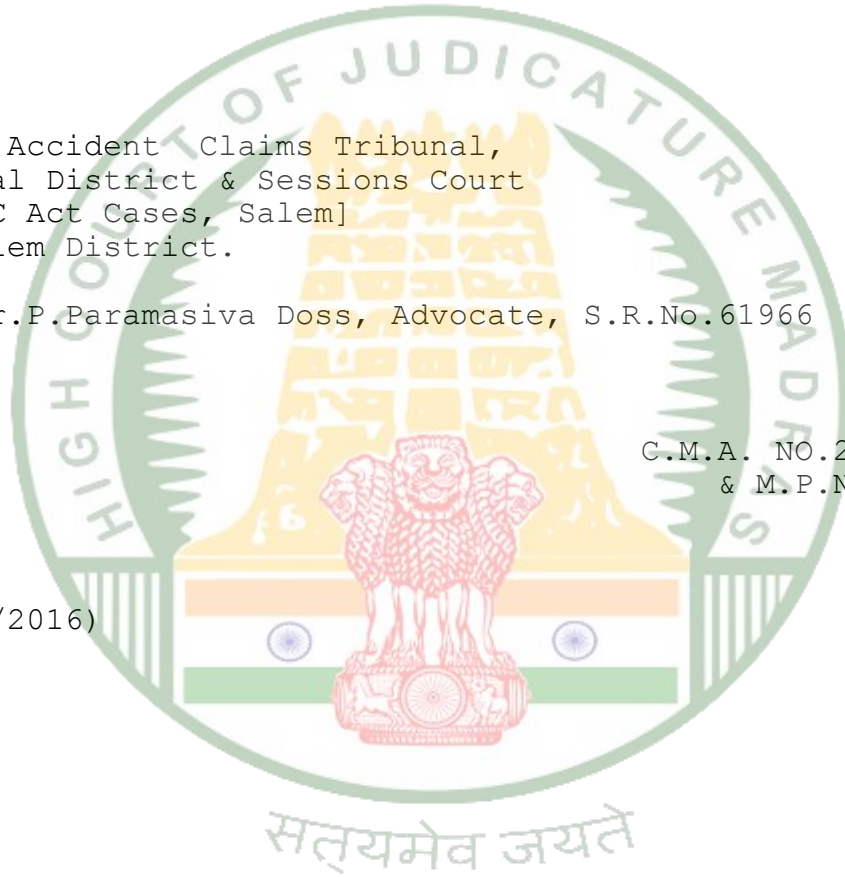
To

The Motor Accident Claims Tribunal,
[Additional District & Sessions Court
for EC Act Cases, Salem]
Salem, Salem District.

+1cc to Mr.P.Paramasiva Doss, Advocate, S.R.No.61966

C.M.A. NO.2450 OF 2015
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tej(CO)
srg(11/01/2016)



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