

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.12.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.2637 of 2015
& M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation, Railway Station Road,
Kumbakonam Town and Taluk. .. Appellant/Respondent

Versus

1.Dhanikodi
2.Anitha .. Respondents/Claimants

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 29.04.2015 made in M.C.O.P.No.99/2013 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Mannarkudi.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

The Civil Miscellaneous Appeal filed by the Transport Corporation is directed against the correctness of the impugned award dated 29.04.2015 made in M.C.O.P.No.99/2013 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Mannargudi.

2.It is the case of the claimants before the Tribunal that on 19.08.2012 at 4.15 p.m. Charu @ Charusri was in the arms of one Vetriselvi. Vetriselvi was standing in the Main Road, Koopatchikottai. At that time, a bus bearing Registration No.TN 49 N 1609, which came in a rash and negligent manner, dashed against Charu @ Charusri and Vetriselvi. Due to the injuries suffered in the accident, Charu @ Charusri was taken to the Government Hospital, Mannargudi. After first aid treatment, Charu @ Charusri was referred to Thanjavur Medical College Hospital, Thanjavur, where she was admitted as inpatient. Despite treatment, Charu @ Charusri died in the hospital. The claimants are father and mother of the deceased. They claimed a sum of Rs.6,00,000/- as compensation. The appellant/Transport Corporation resisted the claim.

3. After considering the oral and documentary evidence, the Tribunal held that the accident had occurred only due to the rash and negligent driving of the driver of the appellant-Transport Corporation and awarded a sum of Rs.5,00,000/- as compensation payable to the claimants with interest at the rate of 7.5%. Aggrieved by that award, the appellant-Transport Corporation has filed the present appeal.

4. Heard Mr.D.Venkatachalam, learned counsel for the appellant and perused the document on record. On the side of the claimants, P.Ws.1 and 2 were examined and document Ex.P1 was marked. On the side of the respondents therein, RW1-Thangadurai, the conductor of the bus, belonging to the appellant/Transport Corporation was examined and no document was marked.

5. Learned counsel appearing for the appellant/Transport Corporation placing reliance on Ex.P.1/xerox copy of FIR registered against the driver of the offending vehicle, belonging to the appellant/Corporation, would submit that the Tribunal has wrongly come to the conclusion that the accident had occurred only due to rash and negligent driving of the driver of the offending vehicle. He would further submit that as per the Schedule to the Motor Vehicles Act, the notional income should have been fixed at Rs.15,000/- per annum, since the deceased was only 2 years old and the Tribunal erroneously fixed the notional income at Rs.24,000/-, which is on the higher side.

6. But this Court is not able to see any merits in the submission made by the learned counsel for the appellant for the reason that the conclusion reached by the Tribunal in awarding a sum of Rs.3,60,000/- towards loss of future income and Rs.1,00,000/- towards loss of love and affection, on the basis of judgments passed by this Court reported in 1)2013 (2) TN MAC 55 (SC) and 2)2013 (4) TN MAC 44 (SC) Rajesh and others vs. Rajbir Singh and others, seems to be reasonable, as the Tribunal relying on various judgments of this Court, has awarded a sum of Rs.5,00,000/- with interest at the rate of 7.5%, as against the claim of Rs.6,00,000/- for the loss of life of 2 years old child. In my view, the said compensation awarded by the learned Tribunal is not excessive one, for, the deceased was 2 years old at the time of death. Had the deceased not died in the accident, she would have lived for full span of her life and would have contributed substantially to her family. Therefore, by applying the principles of just and reasonable compensation, this Court is not inclined to interfere with the impugned award and accordingly the same is confirmed. Accordingly, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, Connected miscellaneous petition is closed.

7.Since the learned counsel for the appellant submitted that the appellant had deposited a sum of Rs.25,000/- towards statutory deposit, the balance amount is directed to be deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is for the claimants to move a petition before the Tribunal for withdrawing the said amount.

vga

s/d-

Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

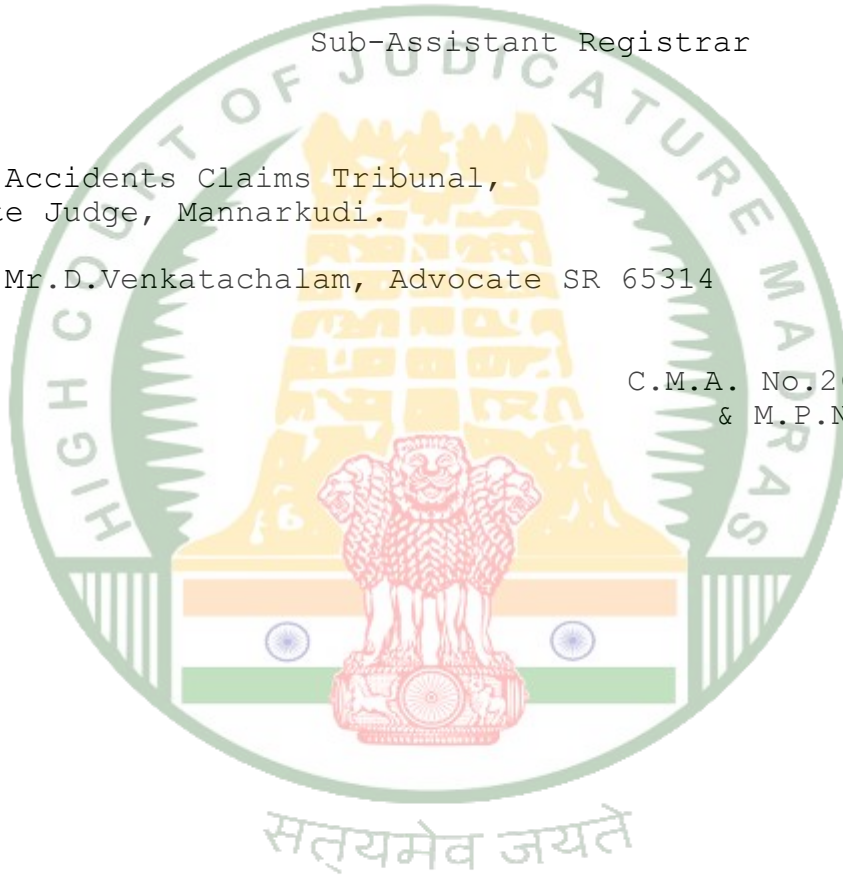
To

The Motor Accidents Claims Tribunal,
Subordinate Judge, Mannarkudi.

+ 1 cc to Mr.D.Venkatachalam, Advocate SR 65314

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