

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.12.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.2669 of 2015
& M.P.No.1 of 2015

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

... Appellant/Respondent

Versus

1.Rajakumari

2.R.Karunanithi

... Respondents/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the judgment and decree dated 25.04.2014 made in M.C.O.P.No.176/2010 on the file of the Motor Accidents Claims Tribunal, (Subordinate Judge), Arni.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

The Civil Miscellaneous Appeal filed by the appellant/Transport corporation is directed against the correctness of the impugned award dated 25.04.2014 made in M.C.O.P.No.176/2010 on the file of the Motor Accidents Claims Tribunal, (Subordinate Judge), Arni, in awarding a sum of Rs.4,75,000/- for the loss of life of the deceased, who died in the accident at the age of 15 years. Aggrieved by the impugned award, Transport Corporation has preferred this appeal.

2.According to claimants, on 08.10.2010 at about 5.30 p.m., while their son was waiting for the bus, a bus bearing registration No.TN-23/N-1496 came and stopped near old Bus stand and some of the passengers got into the bus. When their son got into the bus one step at the foot board, it is at that time, the bus suddenly moved in a rash and negligent manner with high speed, without following any traffic rules by its driver. Due to the sudden and speedy move of the driver, their son died on the spot itself. The claimants are mother and father of the deceased. They claimed a sum of Rs.10,00,000/- 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.4,75,000/- 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.K.J.Sivakumar, learned counsel for the appellant and perused the document on record. On the side of the claimants, P.Ws.1 to 3 were examined and documents Exs.P1 to P3 were marked. On the side of the appellant/transport corporation, R.Ws1 to 3 were examined and Exs.R1 and R2 were marked to substantiate their claim.

5.Learned counsel appearing for the appellant/Transport Corporation would submit that the Tribunal ought not to have accepted the evidence of PW1, who is the mother of the deceased, when she has not seen the occurrence. He would further submit that the Tribunal could not have considered the evidence of PW2, who is the eye witness to the occurrence and the Tribunal merely relying upon the FIR registered against the driver of the appellant, found negligence on the part of the driver of the appellant. He would further submit that the amount awarded by the Tribunal is excessive, exorbitant and also without any basis and justification and that therefore the award passed by the Tribunal is not in accordance with law and the same has to be set aside.

6.As the Tribunal, considering the fact that the deceased was a student and that the accident had occurred only due to the negligence on the part of the driver of the appellant Transport Corporation, has awarded a sum of Rs.4,75,000/- as compensation with 7.5% interest and costs and out of which, Rs.2,52,500/- has been awarded to the 1st claimant/mother and Rs.2,22,500/- has been awarded to the 2nd claimant/father, though the claim made by the claimants was Rs.10,00,000/- and hence the contention made by the learned counsel for the appellant/Transport Corporation could not be accepted. Similarly, a sum of Rs.5,000/- awarded towards funeral expenses and a sum of Rs.5,000/- awarded towards transportation, by the Tribunal, cannot be found fault with. Therefore, this Court is not able to interfere with the impugned award passed by the Tribunal and is inclined to confirm the same since the same seems to be reasonable. 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 has deposited Rs.25,000/- towards statutory deposit, the balance amount is directed to be deposited within a period of six 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.

-s/d-
Assitant Registrar

True Copy

Sub-Assistant Registrar

vga

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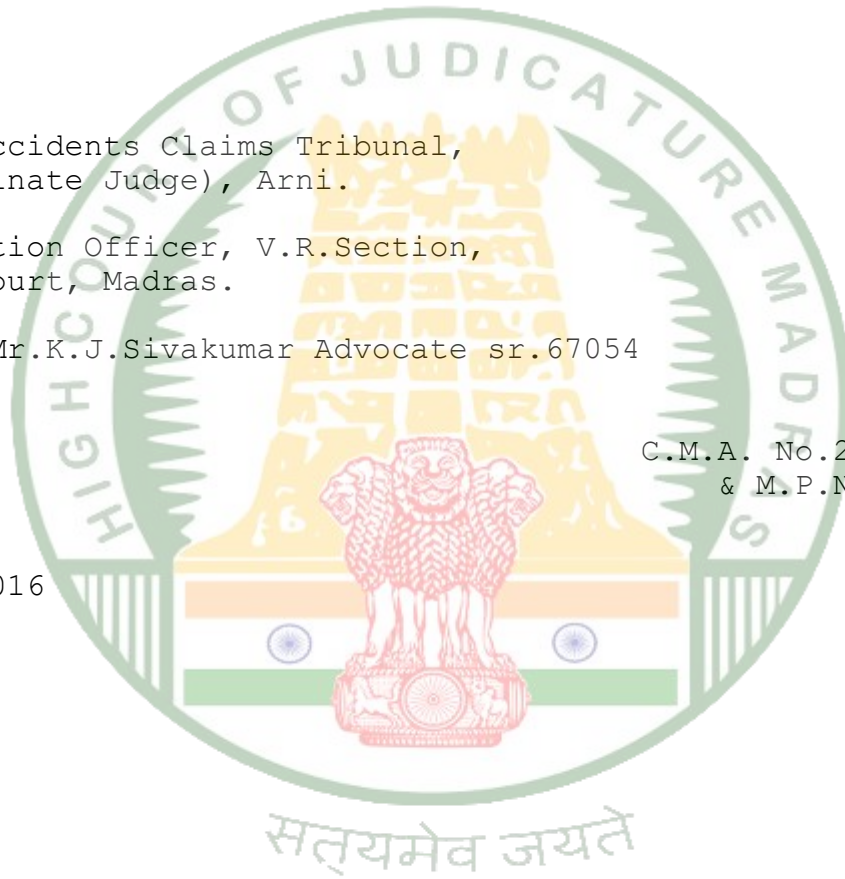
1.Motor Accidents Claims Tribunal,
(Subordinate Judge), Arni.

2.The Section Officer, V.R.Section,
High Court, Madras.

+1 cc to Mr.K.J.Sivakumar Advocate sr.67054

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