

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.12.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.2676 of 2015
& M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram .. Appellant/2nd Respondent

Versus

1.Rajalakshmi
2.Rajendran
3.Jayakumar .. Respondents/Petitioners and 1st
Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the judgment and decree dated 18.11.2014 made in M.C.O.P.No.155/2011 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Chidambaram.

For Appellant : Mr.K.J.Sivakumar

For respondents: Mr.T.Gobinath for R1 and R2

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 18.11.2014 made in M.C.O.P.No.155/2011 on the file of the Motor Accidents Claims Tribunal, (Subordinate Judge), Chidambaram, in and by which the Tribunal has awarded a sum of Rs.8,81,000/- with 7.5% interest per annum, as against the total claim of Rs.15,00,000/- in favour of the claimants, who lost their son at the age of 21 years, while serving as an Accountant cum Manager, Sri Marudhakesari Bankers. Aggrieved by the impugned award, Transport Corporation has preferred this appeal.

2.According to claimants, on 30.08.2009 at about 4.15 p.m., while their son was driving a Bajaj M80 in Chidambaram S.P.Koil Street, a bus bearing Registration No.TN 32 N 2541 came in a rash and negligent manner, dashed against him. The deceased died

on the spot itself. The claimants are mother and father of the deceased. They claimed a sum of Rs.15,00,000/- 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.8,81,000/- 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 Mr.T.Gobinath, learned counsel appearing for R1 and R2/claimants and perused the document on record. On the side of the claimants, P.Ws.1 to 3 were examined and documents Exs.P1 to P7 were marked. On the side of the respondents, RW1-Jayakumar, the driver of the appellant/Transport Corporation was examined and Ex.R1 was marked to substantiate their claim.

5.Learned counsel appearing for the appellant/Transport Corporation would submit that when it is an admitted case of both sides that the deceased was a bachelor, aged about 21 years at the time of his death, as per the principles laid down by the Hon'ble Apex Court in the case of Sarala Varma and others vs Delhi Transport Corporation and another reported in 2009 (2) TN MAC Volume 2 at page 1, instead of deducting 50% of the income as his personal expenses, the Tribunal has wrongly deducted only 1/3rd of the income and as a result, the quantum of compensation awarded by the Tribunal is on the higher side. Learned counsel appearing for the appellant would further submit that when there was no valid document to establish the age of the deceased and also his income, by merely relying upon Ex.P.7/salary certificate, the Tribunal fixed Rs.6,000/- as notional monthly income of the deceased and arrived at Rs.8,16,000/- towards loss of future income and that therefore the award passed by the Tribunal is not in accordance with law and the same has to be set aside.

6.On the other hand, learned counsel appearing for claimants/ respondents 1 and 2 would submit that the Tribunal has come to the right conclusion and awarded a just, fair and reasonable compensation. Hence the impugned award passed by the learned Tribunal does not call for interference.

7.While considering the arguments advanced by the learned counsel for the appellant that the Tribunal, instead of deducting 50% of the income of the deceased towards his personal expenses, had deducted 1/3rd and that the Tribunal has erroneously applied the multiplier '17' and arrived at a sum of Rs.8,16,000/- towards loss of future income, this Court is of

the opinion that the Tribunal considering the fact that the salary certificate marked as Ex.P7 showing that the deceased was serving as a Manager/Accountant and drawing the monthly salary at Rs.7,500/-, correctly arrived at a sum of Rs.8,16,000/- under the head loss of future income by applying the multiplier '17', as per the ratio laid down by the Hon'ble Apex Court in the case of Sarala Verma.

8. Apart from that, the Tribunal has also awarded a sum of Rs.50,000/- towards loss of love and affection, Rs.10,000/- towards funeral expenses and Rs.5,000/- towards transportation expenses, which, in my view, cannot be disturbed, for, had the deceased not died in the accident, he would have lived for full span of his life and would have contributed substantially to his parents, by working hard, however, now due to his sudden demise, they are left to lurch, hence, this Court, by way of applying the principles of just and reasonable compensation, hereby confirms the above said compensation awarded by the Tribunal. Thus, the entire compensation of Rs.8,81,000/- as awarded by the Tribunal is hereby confirmed. Accordingly, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, Connected miscellaneous petition is closed.

9. 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 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.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. Motor Accidents Claims Tribunal,
Subordinate Judge, Chidambaram.

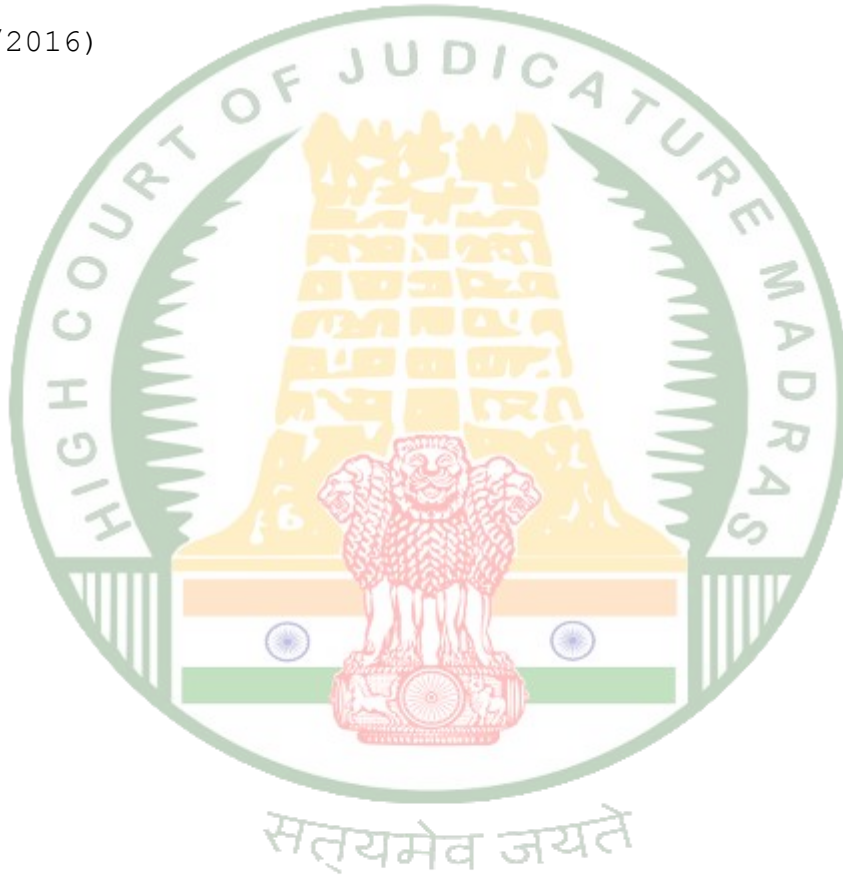
Copy to:

The Managing Director,
TamilNadu State Transport Corporation,
Villupuram.

+1cc to M/S.T.Gobinath, Advocate Sr.65230

C.M.A. No.2676 of 2015
& M.P.No.1 of 2015

rsk(CO)
srg(04/05/2016)



WEB COPY