

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.12.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.2799 of 2015
& M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation,
Kumbakonam Division. .. Appellant/Respondent

Versus

1.Muthaliph
2.Ayisha Beevee .. Respondents/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the judgment and decree dated 14.07.2014 made in M.C.O.P.No.48/2011 on the file of the Motor Accidents Claims Tribunal, (Principal District Judge), Cuddalore.

For Appellant : Mr.D.Venkatachalam
For respondents : Mr.R.Bharathkumar

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 14.07.2014 made in M.C.O.P.No.48/2011 on the file of the Motor Accidents Claims Tribunal, (Principal District Judge), Cuddalore, awarding a sum of Rs.6,88,000/- as against the claim of Rs.15,00,000/-, for the loss of life of the deceased, who died in the accident at the age of 22 years as bachelor. Aggrieved by the impugned award, Transport Corporation has preferred this appeal.

2.According to claimants, on 01.08.2010 at about 1.00 p.m., while the deceased was travelling as pillion rider in his friend's motor cycle on the Venlanthida Samuthiram Petrol Bunk Road, near Kayethey Millath Street opposite side, the appellant's Bus bearing Registration No.TN49-N-1485 came in the same direction at a great speed in a rash and negligent manner, without making horn, dashed against the deceased. Due to such act of the offending vehicle's driver, their son was thrown out

of the motor cycle and sustained fatal injuries. Immediately after the accident, the deceased admitted in Government Hospital, Sirkazhi. The deceased died in the hospital. The respondents are the father and mother of the deceased respectively. At the time of accident, the deceased was aged about 22 years. He was running a meat stall on his own and was earning Rs.10,000/- per month. The deceased was only bread winner of the family. Due to sudden death of the deceased, the respondents have lost their son. 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.6,88,000/- as compensation payable to the claimants with interest at the rate of 6%. Aggrieved by that award, the appellant-Transport Corporation has filed the present appeal.

4.Heard Mr.D.Venkatachalam, learned counsel for the appellant and Mr.R.Bharathkumar, learned counsel for respondents/claimants and perused the documents on record. On the side of the claimants, P.Ws.1 and 2 were examined and documents Exs.P1 to P7 were marked. On the side of the appellant/Transport corporation, no witness was examined and no document was marked.

5.Learned counsel appearing for the appellant/Transport Corporation would submit that the Tribunal has wrongly accepted the evidence of PW1, who is the father of the deceased, when he was not an eye witness to the accident. He would further submit that the Tribunal merely relying upon Ex.P1/a copy of FIR registered against the driver of the bus, belonging to the appellant Corporation, held that the accident had occurred only due to the rash and negligent driving made by the driver of the bus. Adding further, he would submit that when the claimants have not filed valid document to prove the age and income of the deceased, accepting Ex.P7/Income Certificate issued by Tahsildar, Sirkazhi, even without examining the validity of the same, Tribunal has fixed the notional monthly income of the deceased at Rs.6,000/- erroneously. Therefore, the impugned order is liable to be interfered with.

6.The Tribunal, after examining P.W.2/Akbar Ali, has accepted the evidence of him, since he was the eyewitness of the accident and came to the conclusion that only due to the rash and negligent driving of the driver of the offending vehicle, the deceased was fatally hit and as a result of which, the claimants' family has lost the bread winner of the family. Considering the fact that the deceased was running meat stall,

which was supported by Ex.P6/ Service Certificate of deceased Abdul Rahman, issued by Adhishiyam Catering Service, Sirkazhi, the Tribunal has fixed a sum of Rs.6,000/- as notional monthly income, following the ratio 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 and deducted 50% towards his personal and living expenses and finally adopted proper multiplier '18' and arrived at a sum of Rs.6,48,000/- towards loss of future income. Therefore, this Court is not able to see any infirmity in the approach adopted by the Tribunal for reaching such a reasonable sum of Rs.6,48,000/- towards loss of future income. Thus, the same is hereby confirmed.

7.Further it is seen that the Tribunal has awarded a sum of Rs.10,000/- each towards loss of love and affection and Rs.10,000/- each towards Transport and funeral 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.

8.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 VI)

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Sub Assistant Registrar

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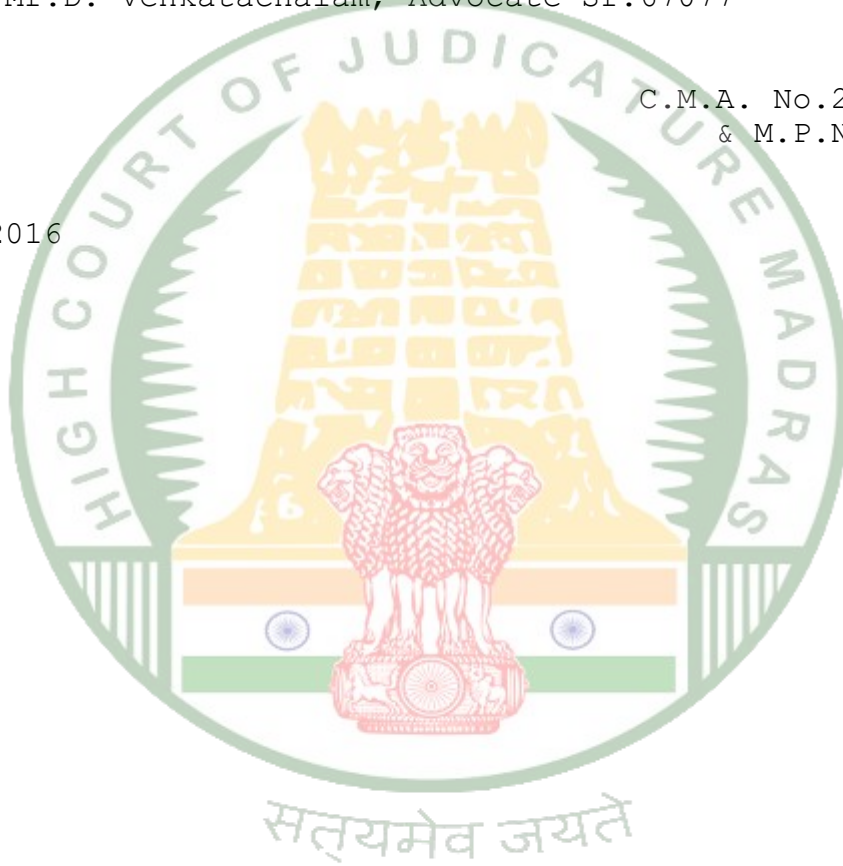
1. Motor Accidents Claims Tribunal,
(Principal District Judge), Cuddalore.

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

+ 1 cc to Mr.D. Venkatachalam, Advocate Sr.67077

C.M.A. No.2799 of 2015
& M.P.No.1 of 2015

VGI (CO)
EU 13.05.2016



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