

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 587 of 2015

&

M.P. No. 1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation (Kumbakonam)
Limited, Karaikudi. ...Appellant/Respondent

Vs.

1. Kantha
2. N. Murugammal
3. Minor Rupa Sri

(Minor rep. by her mother and NF
N. Murugammal) ...Respondents/Petitioner

Prayer: Civi Miscellaneous Appeal as against the judgment and decree dated 25.07.2014 made in M.C.O.P. No. 694 of 2013 by the Motor Accidents Claims Tribunal (Special District Court), Krishnagiri.

For Appellant :: Mr.D. Venkatachalam

For Respondents :: Mr.V.Vijayakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Transport Corporation questioning the liability fastened on them as well as the quantum of compensation of Rs. 10,81,000/- granted in favour of the claimants for the death of one Narasimman, who is the son of the 1st respondent/husband of the 2nd respondent/father of the 3rd respondent and claimed to have earned Rs.15,000/- per month as a Mason, in the accident, which occurred on 01.12.2010, when the bus, belonging to the appellant Transport Corporation, coming in the

opposite direction, collided with the two-wheeler driven by the deceased.

2. Heard Mr.D. Venkatachalam, learned counsel for the appellant and Mr.V. Vijay Veliappan, learned counsel for the respondents.

3. The learned counsel for the appellant argued that the deceased alone was responsible for the accident as he tried to overtake the bus going in front of his two-wheeler and in the process, collided with the bus belonging to the appellant Transport Corporation coming in the opposite direction and if he had been careful enough, the accident could have been averted.

4. However, P.W.2, by name Suresh, who was examined as an eye-witness, categorically stated that it was he, who gave information about the accident to the 2nd respondent herein and stated that the accident occurred because of the rash and negligent driving by the driver of the appellant Transport Corporation bus. The Tribunal also took into consideration, the filing of Ex-P1, FIR as against R.W.1, the driver of the bus and the departmental action taken against the said driver by the appellant Transport Corporation and came to the conclusion that the accident occurred because of the rash and negligent driving of the bus belonging to the appellant Transport Corporation. Moreover, the Tribunal considered the non-mentioning of the rider of the two-wheeler crossing the middle line on the road and causing head on collision with the bus on the right hand side in the counter statement and rightly rejected R.W.1's evidence. Hence, the finding rendered by the Tribunal regarding negligence aspect cannot be found fault with and the same is confirmed.

5. The deceased is claimed to have worked as a Mason and earned about Rs.15,000/- per month. However, in the absence of any positive evidence, Rs.7800/- was determined as monthly income fixing Rs.300/- as daily wages. However, "Future Prospects" was not taken into consideration by the Tribunal. Hence, instead of fixing Rs.7800/- as monthly income, this Court re-determines the monthly income at Rs.6000/- per month and since the deceased was aged about 40 years, 30% is added towards "Future Prospects" following Sarla Verma's judgment (2009 (2) TN MAC 1 (SC)). Therefore, total monthly income would be,

= Rs.6000/- + 30% of Rs.6000/-
= Rs.7800/-

Since the family of the deceased consists of 3 members, one-third deduction is required to be made towards his "Personal Expenses". Accordingly, after one-third deduction, the "Monthly Contribution of the deceased to his family" would be,

= Rs.7800/- (-) 1/3 (Rs.7800/-)
= Rs.5200/-

As per the judgment of the Honourable Apex Court in Sarla Verma's case ((2009 (2) TN MAC 1 (SC)), the appropriate multiplier, as per the age of the deceased, would be 15. Applying the same,

Loss of Income = Rs.5200 x 12 x 15
= Rs.9,36,000/-

The sum of Rs.50,000/- awarded towards "Loss of Consortium" to the 2nd respondent, Rs.25,000/- awarded towards "Loss of love and affection" to each of the 1st respondent/mother of the deceased and the 3rd respondent/minor daughter; Rs.10,000/- awarded towards "Damage to the Vehicle", Rs.25,000/- awarded towards "Funeral Expenses" and Rs.10,000/- awarded towards "Transportation Expenses" are all reasonable and they are confirmed. No amount was awarded towards "Loss of Estate" and hence, Rs.25,000/- is awarded towards the same. In all, a sum of Rs.11,06,000/- rounded off to Rs.11 lakhs is payable as compensation to the claimants. The rate of interest awarded by the Tribunal at 7.5% per annum remains unaltered.

6. Out of the said sum of Rs.11 lakhs, the 3rd respondent/minor daughter is entitled to Rs.5 lakhs; the 2nd respondent/wife is entitled to Rs.4 lakhs and the 1st respondent/mother of the deceased is entitled to Rs.2 lakhs. The appellant Transport Corporation is directed to hand over either cheques or Demand Drafts, for the respective amounts, payable to 1st and 2nd respondents, in their names, directly to them, by calling the parties to the office of the Transport Corporation. The minor's' share shall be deposited by the appellant before the Tribunal, with proportionate interest and costs, within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the Tribunal shall re-invest the same in interest bearing Fixed Deposit, in any one of the Nationalised Banks, at least for a period of 6 years. The claimants shall pay additional court-fee, if any, for the enhanced amount.

7. In the result, the Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal, to the tune of Rs.10,81,000/- is enhanced to Rs.11 lakhs. No costs. Connected M.P. is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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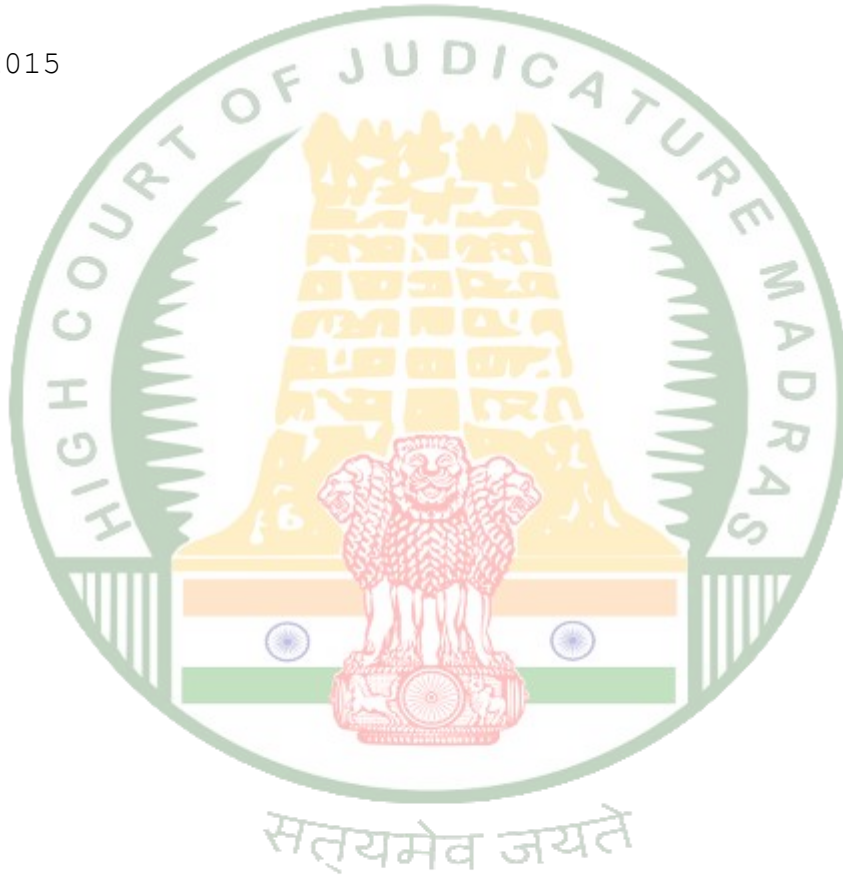
The Motor Accident Claims Tribunal
Special District Judge, Krishnagiri.

1 cc to Mr. V.Vijaya Kumar, Advocate, SR.No.15840

1 cc to Mr. D.Venkatachalam, Advocate, SR.No.16147

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