

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.605 of 2015

and

M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation,
(Villupuram-III) Limited,
Kanchipuram Region,
Kanchipuram.Appellant/Respondent

Vs.

1.A.Krishnaveni
2.M.Arumugam
3.A.Sundarraaj
4.A.YosodhammalRespondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 21.02.2012 made in M.C.O.P.No.754 of 2008 on the file of the Motor Accident Claims Tribunal, (Additional District and Sessions Judge, FTC-III), Chennai.

For Appellant : Mr.K.J.Sivakumar

For Respondents: Mrs.Saleem Fathima
R1, R3 & R4

JUDGMENT

This appeal has been preferred by the appellant Transport Corporation, aggrieved over the quantum of Rs.3,32,000/- awarded as compensation, for the death of one A.Suman, aged about 22 years, said to be earning a sum of Rs.7,500/- per month, who died in the accident, which occurred on 07.11.2007.

2. Heard Mr.K.J.Sivakumar, learned counsel appearing for the appellant Transport Corporation and Mrs.Saleem Fathima, learned counsel appearing for the respondents/claimants.

3. The Tribunal took Rs.4,000/- as monthly income and deducted 50% towards personal expenses as the deceased was bachelor and applying multiplier 13, according to the age of the mother of the deceased, awarded a sum of Rs.3,32,000/- as compensation. In this Court's considered opinion, a sum of Rs.4,000/- as fixed by the

Tribunal for monthly income of the deceased, who was a driver, in the year 2007 is too low. Therefore, this Court fixes the amount at Rs.5,000/- as monthly income. As the deceased was aged about 22 years, as per the Judgment of the Hon'ble Supreme Court in SANTOSH DEVI Vs. NATIONAL INSURANCE CO. LTD., AND OTHERS reported in 2012 ACJ 1428, 50% is required to be added towards future prospects, the amount would be 5000/- + 50% = 7500/- and after deducting 50% towards the personal expenses of the deceased, the amount would be Rs.3,750/-, as the age of the deceased, the appropriate multiplier would be 18, the loss of income would be calculated is as follows:-

$$5000 + 50\% - 50\% \times 12 \times 18 = 8,10,000/-.$$

4. The claimants are mother, father, brother and sister of the deceased and therefore this Court awards a sum of Rs.30,000/- towards loss of love and affection to the mother of the deceased and Rs.10,000/- each awarded towards loss of love and affection to the respondents 2 to 4. A sum of Rs.5,000/- awarded by the Tribunal towards funeral expenses is too low and the same is hereby enhanced to Rs.15,000/-. Totally, this Court awards a sum of ***Rs.8,85,000/-** as compensation along with interest at the rate of 7.5% p.a.

5. Though the appellant Transport Corporation has filed this appeal against the quantum of Rs.3,32,000/-, by re-appreciating the evidence on record and under Order 41 Rule 33 C.P.C, this Court enhances the award at Rs.8,85,000/- as compensation, even in the absence of appeal/cross appeal, as the provisions of the Motor Vehicles Act are beneficial in nature, what is required to be given is only just and reasonable compensation and therefore, the compensation has been enhanced.

6. The appellant transport corporation is directed to deposit the entire amount along with interest at the rate of 7.5% p.a. and costs, minus the amount already deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the respondents/claimants are permitted to withdraw their respective shares, as apportioned by the Tribunal, within one week thereafter. If the award amount is not deposited within the time fixed by this Court, the Chairman cum Managing Director, Finance Officer cum Chief Accounts Officer of the appellant Transport Corporation shall appear before this Court on 02.06.2015.

7. In view of the above, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected M.P. is closed.

31.03.2015

This case having been posted 'For being mentioned' on Wednesday the 3rd day of June 2015 in the presence of Mr.K.J.Sivakumar, Advocate on behalf of T.N. State Transport Corporation the appellant herien and Mrs.Saleem Fathima, Advocate for the respondenrs R1, R3 and R4 this court made the following order:-

This matter has been brought before this Court today under the caption 'For Being Mentioned' as there is discrepancy with regard to the quantum of compensation awarded by this Court on 31.03.2015.

2. It is represented by the learned counsel for the appellant that in paragraph 4 of the judgment of this court dated 31.03.2015, the award amount is mentioned as Rs.8,95,000/- whereas in paragraph 5 it is mentioned as Rs.8,85,000/-.

3. A perusal of the calculation made by this Court would reveal that the following amount have been awarded -

(i) Loss of income	... Rs.8,10,000/-
(ii) Loss of love & affection to mother	... Rs. 30,000/-
(iii) Loss of love & affection to respondents 2 to 4	... Rs. 30,000/-
(iv) Funeral expenses	... Rs. 15,000/-

Total	... Rs.8,85,000/-
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4. In view of the above, the amount mentioned in paragraph 4 is correctly rectified as Rs.8,85,000/-. Registry is directed to issue fresh order copy . The other contents of the order dated dated 31.03.2015 shall remain unaltered.

5. Post the matter for compliance on 01.07.2015. If the order of this Court datd 31.03.2015 is not complied with on or before 01.07.2015, the Chairman cum Managing Directir and Chief Accounts Officer cum Financial Advisor of Transport Corporation shall appear before this court on 01.07.2015.

Sd/-
Assistant Registrar (CS II)
Dated: 27.5.2015

*amended as on 3.6.2015

Sd/
Assistant Registrar
Dated: 16.6.2015

//True Copy//

Sub Assistant Registrar

rrg

To

1.The Additional District and Sessions Judge,
Motor Accident Claims Tribunal,
Fast Track Court No.III,
Chennai.

2. The Chairman Cum Managing Director,
Tamil Nadu State Transport Corporation,
(Villupuram-III), Limited, Kanchipuram Region,
Kanchipuram.

3. The Finance Officer cum Chief Accounts Officer,
Tamil Nadu State Transport Corporation,
(Villupuram-III), Limited Kanchipuram Region,
Kanchipuram.

To be substituted
to the order
already
despatched on
2.6.2015

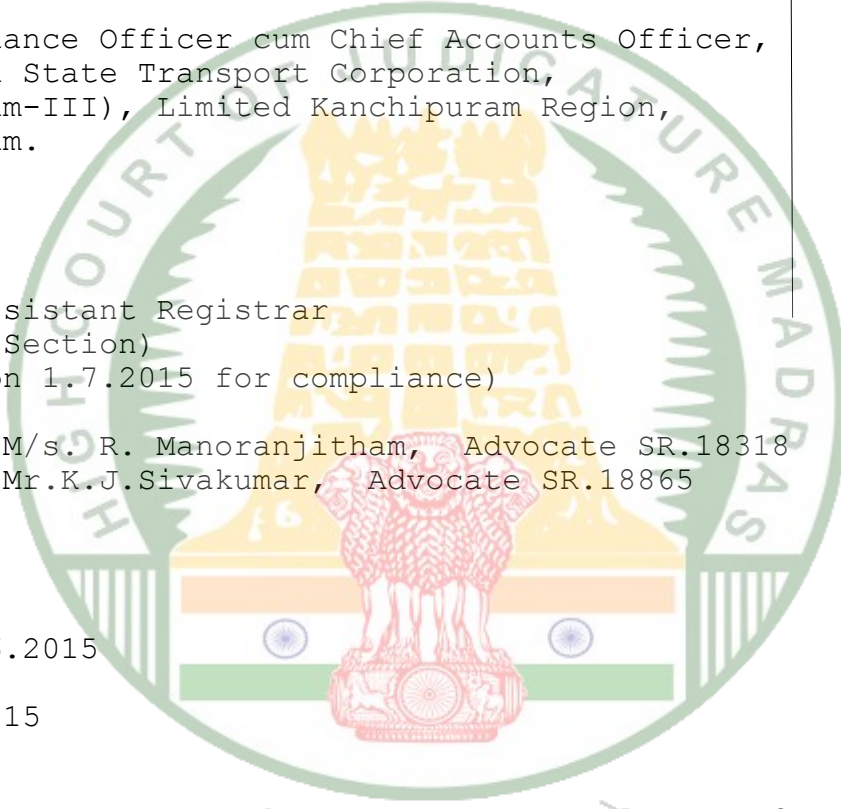
Copy to

The Sub Assistant Registrar
(Judicial Section)
(To post on 1.7.2015 for compliance)

+ 1 cc to M/s. R. Manoranjitham, Advocate SR.18318
+ 1 cc to Mr.K.J.Sivakumar, Advocate SR.18865

BR(CO)
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C.M.A.NO.605 of 2015

31.03.2015/ 03.06.2015

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