

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.04.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.751 of 2015

and

M.P.No.1 of 2015

The Managing Director

Tamil Nadu State Transport Corporation

(Kumbakonam Division-1) Ltd.,

Railway Station New Road,

Kumbakonam.

... Appellant /Respondent

Vs.

1.S.Thaiyalnayagi

2.S.Vallinayagi

3.S.Tamil Maran

4.S.Kayalvizhi

5.S.Thamarai Selvam

.... Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 28.02.2013 made in M.C.O.P.No.2757 of 2011 on the file of Motor Accident Claims Tribunal, (Principal District Judge), Cuddalore.

For Appellant : Mr.D.Venkatachalam

For Respondents : Mr.S.Parthiban

JUDGMENT

This appeal has been preferred by the Transport Corporation against the award of Rs.3,17,000/- as compensation, for the death of one M.Sundaresan, aged about 62 years, a brick merchant, alleged to have earned Rs.15,000/- per month, in the accident, which occurred on 24.08.2011.

2. Heard Mr.D.Venkatachalam, learned counsel appearing for the appellant Transport Corporation and Mr.S.Parthiban, learned counsel appearing for the respondents/claimants.

3. Though Mr.D.Venkatachalam, learned counsel for the appellant would argue that the amount of Rs.4,000/- taken as monthly income for the 62 years old man, the said amount cannot be said to be on the higher side, as no one could get manual labour, for less than

Rs.5,000/- even in the year, 2011. However, the Tribunal reasonably fixed the monthly income at Rs.4,000/- and therefore it is confirmed. Considering the age of the deceased as 62 years, Rs.4,000/- determination by the Tribunal is very reasonable.

4. Though the learned counsel for the appellant would further argue that the claimants are the major persons and therefore 1/3rd amount should have been deducted towards the personal expenses of the deceased, where as 1/3rd alone has been deducted by the Tribunal, the said deduction cannot be found fault with.

5. Even though Mr.Parthiban, learned counsel for the respondents/claimants sought for Rs.1,00,000/- for loss of consortium instead of Rs.10,000/- awarded by the Tribunal, taking into consideration the overall award of Rs.3,17,000/-, the sum of Rs.10,000/- awarded towards loss of consortium, Rs.10,000/- each awarded towards loss of love and affection, Rs.2,500/- awarded towards funeral expenses and a sum of Rs.2,500/- awarded towards transportation are all reasonable and the same is confirmed. The rate of interest fixed by the Tribunal at the rate of 6% is hereby enhanced to 7.5%. Therefore, a sum of Rs.3,17,000/- awarded by the Tribunal is confirmed and the appeal fails and the same is dismissed. No costs. Consequently, connected M.P. is closed.

6. The Tribunal fixed the share of Rs.1,77,000/- to the first respondent/wife and Rs.35,000/- each to the respondents 2 to 5. Considering the age of the first respondent/wife, it is appropriate to enhance her share amount from Rs.1,77,000/- to Rs.2,17,000/- and the share of respondents 2 to 5 are hereby reduced to Rs.25,000/- each.

7. The appellant Transport Corporation is directed to call the claimants to their office and issue cheque as per the ratio fixed by this Court within a period of eight weeks from the date of receipt of a copy of this order, failing which, 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.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

The Motor Accident Claim Tribunal,
(Principal District Judge)
Cuddalore.

2.The Chairman cum Managing Director,
TNSTC, (Kumbakonam Divn I Ltd.,)
Kumbakonam.

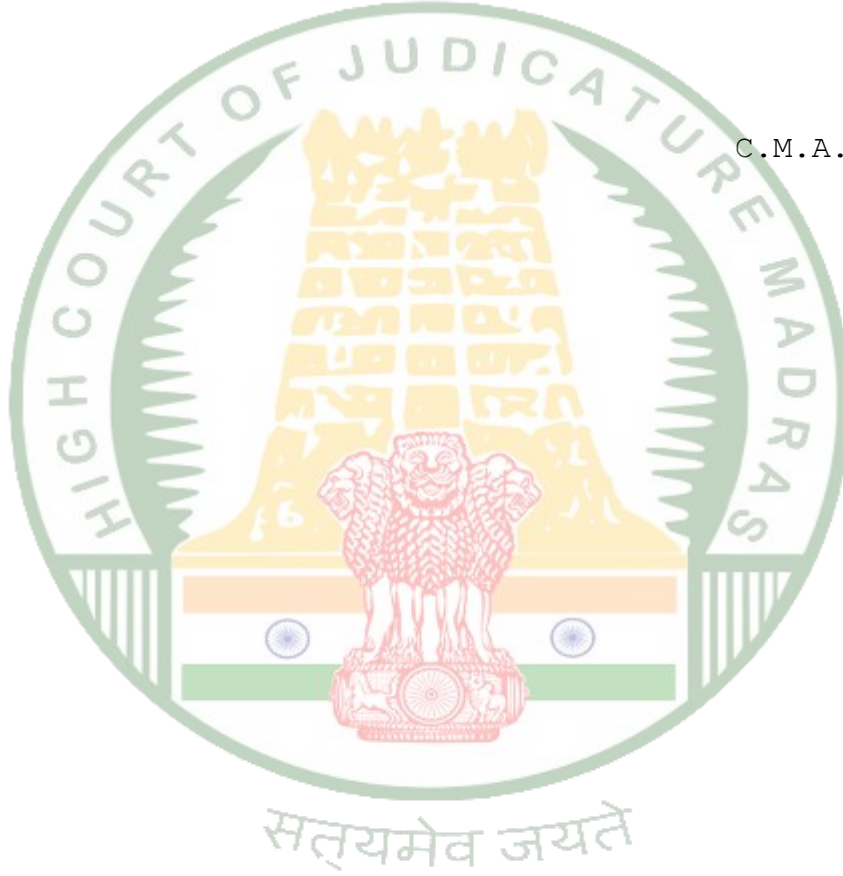
3.The Finance Officer cum Chief Accounts officer,TNSTC
(Kumbakonam Divn I Ltd.,)
Kumbakonam.

+1 cc to Mr.S.Partheeban, Advocate,SR.19023

+1 cc to Mr.D.Venkatachalam, Advocate,SR.19093.

bkk(co)
krd 9/4

C.M.A.NO.751 of 2015



WEB COPY