

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.1.2015

CORAM:

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA.No.3608 of 2014

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Salamedu, Villupuram. ... Appellant /Respondent

Versus

1.Malliga
2.Ambiga
3.Anbu
4.Anitha ... Respondents/Petitioner

This civil Miscellaneous appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree passed by the Motor Accidents Claims Tribunal, District Judge, Thiruvannamalai made in MCOP.No.1 of 2010 dated 28.1.2013.

For Appellant : Mr.S.V.Vasanthakumar

For Respondents : Mr.B.Jawahar for RR 1 to 4

J U D G E M E N T

The appeal has been filed by the Transport Corporation against the award of Rs.5,91,000/- for the death of one Jayaraj, who died in the accident which occurred on 1.8.2009.

2. Heard the parties and perused the records. Mr.S.V.Vasanthakumar, learned counsel appearing for the Transport Corporation would submit that the vehicle was not involved in the accident and even the postmortem report, does not show that the Transport Corporation bus was involved in the accident. However, a perusal of the records would indicate that the accident occurred on 1.8.2009 and the victim died on the spot at 8.10 P.M. From the hospital information was received by the police, and FIR was registered. A criminal case was filed against the driver of the bus.

3. Though, Mr.S.V.Vasanthakumar, learned counsel appearing for the appellant argued that the postmortem report does not say the transport corporation bus was involved in the accident, it is revealed that the victim died in the road accident. Postmortem report would not contain the information of the vehicle involved in the road accident and the postmortem report would disclose the particulars of injuries causing the death alone and not anything else. Taking note of filing of FIR, deposition of PW2 Eye witness, the Tribunal rightly came to the conclusion that the accident occurred because of the rash and negligent driving of the Transport Corporation bus. The tribunal fixed Rs.4500/- as monthly income of the deceased. In Syed Sathiq etc. vs. The Divisional Manager, United India Insurance Co. Ltd., reported in 2014 (1) TN MAC 459, for a vegetable vendor, who sustained injuries in the accident which occurred on 14.2.2008, the Hon'ble Supreme Court determined the income of a vegetable vendor at Rs.6500/- and added 50% of the income towards future prospect and fixed the monthly loss of income at Rs.9750/-. Following the said judgement, this court determines the income of Rs.6000/- per month, after deduction towards personal expenses, as the family consists of more than three persons. The victim was 40 years. Hence the loss of income is determined as follows:

$$\text{Rs.6000/-} \times 12 \times 15 = \text{Rs.10,80,000/-}$$

4. Only Rs.10,000/- was awarded towards loss of consortium to the first respondent. Following the case of Rajesh & others reported in 2013 (3) CTC 883, this court enhances the loss of consortium to the first respondent to Rs.1,00,000/-. Rs.30,000/- awarded towards loss of love and affection, Rs.1000/- awarded towards damage to cloth and articles are confirmed. Rs.10,000/- awarded towards funeral expenses and Transport charges is low and is enhanced to Rs.15,000/-. Totally a sum Rs.12,26,000/- is awarded. The rate of interest awarded by the Tribunal at 7.5% stands confirmed. Though the transport corporation files the appeal against the award of Rs.5,91,000/-, on re-appreciation of evidence, this court in order to award just compensation, enhances the award amount to Rs.12,26,000/- by invoking Order 47 Rule 33 C.P.C. More over, the appeal is a continuation of original proceedings and the provisions of Motor Vehicles Act are beneficiary in nature. In view of that only, even in the absence of any appeal or cross appeal, this court enhances the award amount, in the appeal filed by the Transport corporation.

5. The appeal is disposed of. No costs. Consequently the connected M.P.No.1 of 2014 is closed. The appellant is directed to deposit the award amount along with interest and costs as per the above order of this court on or before 26.3.2015. On such deposit, the respondents are permitted to withdraw the entire award amount. In case, the appellant fails to deposit the award amount, the Managing Director, Chairman and the Finance Adviser-cum-Chief Accountant

Officer of the Transport Corporation shall appear on 27.3.2015. Post the case on 27.3.2015 for compliance.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vk

To

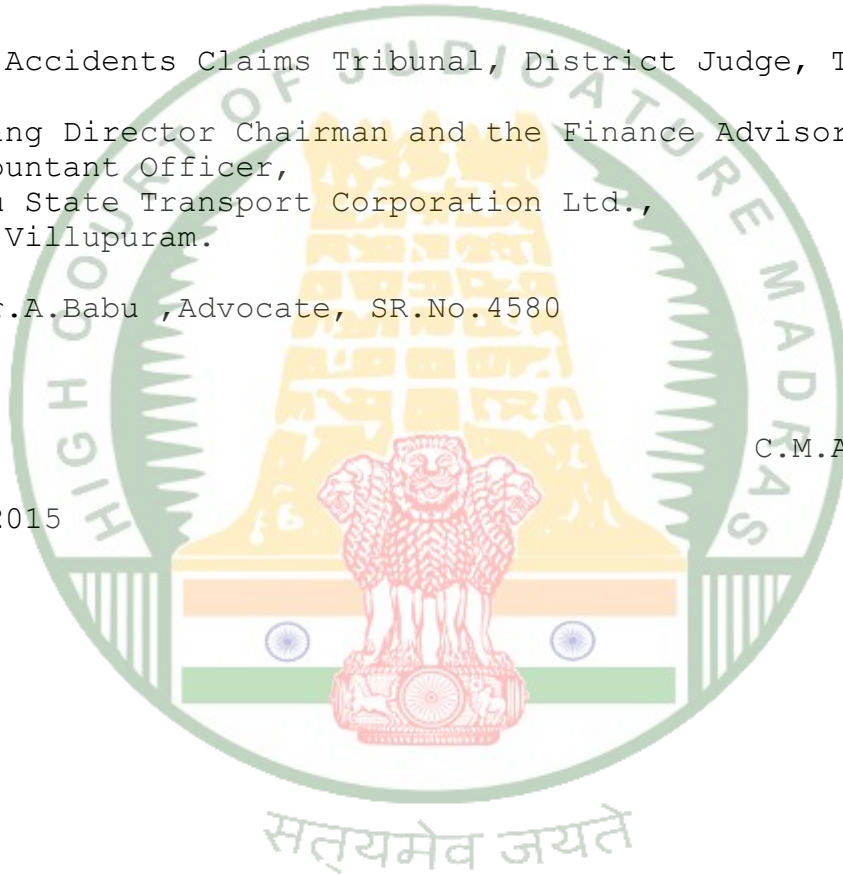
The Motor Accidents Claims Tribunal, District Judge, Thiruvannamalai.

The Managing Director Chairman and the Finance Advisor cum
Chief Accountant Officer,
Tamil Nadu State Transport Corporation Ltd.,
Salamedu, Villupuram.

1 cc to Mr.A.Babu ,Advocate, SR.No.4580

scd(co)
pmk.17.2.2015

C.M.A.No.3608 of 2014



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