

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2015

C O R A M

THE HONOURABLE Mr.JUSTICE B.RAJENDRAN

C.M.A.No.3286 of 2006

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
No.7, Ramakrishna Road
Salem 636 007.

... Appellant/ Respondent

Vs

1. V.M.Krishnan
2. Thangammal
3. Vijaya Nivathini
4. Minor Rajalakshmi
5. Minor Mohanasundaram

... Respondents/
Respondents 1 to 5

[Minors 4 and 5 represented
by their guardian and next
friend and mother
Vijaya Nivathini -R3]

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988 against the judgment and decree dated 29.09.2004 passed by the learned Additional District Judge, Fast Track Court No.IV, Motor Accident Claims Tribunal, Bhavani in MCOP No.173 of 2004.

For appellant ... Mr.P.Jagadeeswaran

for Respondent ... Mr.K.Govi Ganesan

J U D G M E N T

The Tamil Nadu State Transport Corporation Limited, Salem is the appellant.

2. In respect of the death of one Nataraj in a road accident that took place on 19.10.2002, the respondents herein viz., aged parents, wife and two minor children went before the Tribunal claiming compensation in a sum of Rs.20,00,000/-. The Tribunal, on appreciation of oral and documentary evidence, passed an award for a sum of Rs.9,05,000/- with interest at the rate of 9% per annum from the date of petition till the date of deposit. Questioning the same, the present appeal has been filed.

3. The learned counsel appearing for the appellant fairly states that they are mainly aggrieved of the quantum determined by the Tribunal towards loss of income contending that considering the age of the deceased at the time of accident, the same is very high. In such circumstances, there is no need for this Court to go into the finding relating to negligence.

4. Whereas the learned counsel for the respondents/claimants would vehemently contend that the Court below has not taken into consideration the fact that the widow is aged only 30 years at the time of the accident and that she has to look after the aged parents of the deceased as well as two minor children and it is very difficult for her to manage the entire family with the meagre amount. He would further submit that at the time of accident, the deceased was aged only 32 years and as per the post mortem report, he was aged 34. Accordingly, she would pray for enhancement of the compensation.

5. Heard both sides and perused the records.

6. It is seen that claimants 1 and 2 are the aged parents, third claimant is a widow and claimants 4 and 5 are the minor children of the deceased. It is the evidence of P.W.1, wife of the deceased, that her husband was running a medical shop and has also let out Maruti Omni Van for rent and was earning a sum of Rs.20,000/- per month. In the absence of any documentary proof for the same, the Tribunal refused to accept her statement. However, arrived at a conclusion that considering his age, viz., 36 years, at the time of his death, it would be possible for him to earn at least a sum of Rs.7,000/- per month and adopting 16 multiplier arrived at a sum of Rs.13,44,000/- as loss of income to the family; after deducting 1/3 rd towards his personal expenses fixed his contribution to the family at Rs.8,96,000/- and awarded the same towards loss of income; Further the Tribunal awarded a sum of Rs.2,500/- towards Funeral expenses; towards loss of love and affection a sum of Rs.2,000/-; towards loss of consortium to the third claimant/widow and Rs.5,000/- and totally awarded a compensation in a sum of Rs.9,05,500/-.

7. Though it is argued, that the amount arrived at by the Tribunal is excessive, it should be noted that at the time of accident, the deceased was aged only 36 years and he was hale and healthy. It is not clear as to how the Tribunal is justified in fixing his income at the rate of Rs.7,000/- per month when he has to maintain a family consisting of his wife, two minor children and aged parents. It is further to be noted that after fixing so, the Tribunal has adopted 16 multiplier and deducted 1/3 rd towards his personal expenses and arrived at a sum of Rs.8,96,000/- as his contribution to the family and awarded the same towards loss of income, which is very high. Considering the facts and

circumstances of the case, this Court is inclined to fix his monthly income at Rs.6,000/- and after deducting 1/3rd towards his personal expenses, his monthly contribution to the family is fixed at Rs.4,000/-. The multiplier adopted by the Tribunal is correct. Hence, applying the same, loss of income is fixed as follows:

$$\text{Rs.4,000} \times 12 \times 16 = \text{Rs.7,68,000/-}$$

Further, the loss of consortium awarded to the third claimant/widow is very meagre and hence, it is increased to Rs.50,000/- and towards loss of love and affection to the minor children the sum of Rs.2,000/- awarded by the Court below is increased to Rs.10,000/- each. Accordingly, the compensation awarded by the Court below is modified as follows:

Loss of income	Rs.7,68,000/-
Loss of consortium	Rs. 50,000/-
Loss of love and affection	Rs. 20,000/-
Total	Rs. 8,38,000/-

Accordingly, a sum of Rs.8,38,000/- [Rupees eight lakhs and thirty eight thousand only] is awarded as compensation to the claimants.

8. Hence, the appellant-Transport Corporation is directed to deposit the entire modified amount, within a period of three months from the date of receipt of a copy of this order, if not already deposited. It is also seen that this Court had earlier directed the appellant-Transport Corporation to deposit 50% of the amount awarded by the Court below. If the same has already been deposited, the appellant-Transport Corporation is directed to deposit the remaining amount within the time stipulated by this Court. The award will carry interest at the rate of 9% from the date of petition as ordered by the Court below. On such deposit being made, the claimants are entitled to withdraw the entire compensation amount along with interest on making out a proper application before the court below as per the proportion made out by the Court below. As far as the minor claimants 4 and 5 shares are concerned, the same shall be deposited in an interest bearing Fixed Deposit till their attainment of majority.

9. With the above modification, this Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Asst.Registrar (CS IV)

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Sub Asst. Registrar

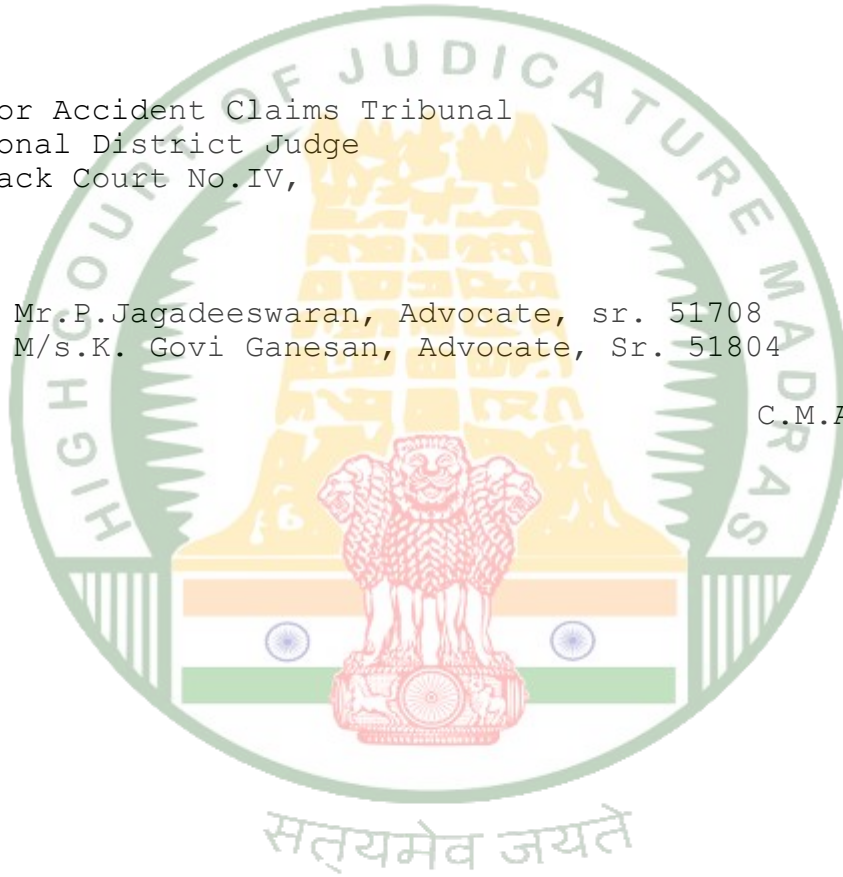
To

The Motor Accident Claims Tribunal
Additional District Judge
Fast Track Court No.IV,
Bhavani

1 cc to Mr.P.Jagadeeswaran, Advocate, sr. 51708
1 cc to M/s.K. Govi Ganesan, Advocate, Sr. 51804

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