

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.04.2016

CORAM

THE HON'BLE Mr.JUSTICE S.VAIDYANATHAN

C.M.A.No.1045 of 2016
and C.M.P.No.7979 of 2016

The Managing Director,
State Express Transport
Corporation Limited,
Thiruvalluvar House, Pallavan Salai,
Chennai-600 002. ..Appellant/Respondent

Vs.

1.Lakshmi
2.Kasthuri
3.Kavitha ... Respondents/Petitioners

Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 23.11.2011 made in M.C.O.P.No.123 of 2009 on the file of the learned District Judge, Motor Accidents Claims Tribunal, Thiruvarur.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the judgment and decree dated 23.11.2011 made in M.C.O.P.No.123 of 2009 on the file of the learned District Judge, Motor Accidents Claims Tribunal, Thiruvarur.

2. Heard the learned counsel for the appellant and perused the materials available on record.

3. Claiming compensation to the tune of Rs.5 lakhs, on account of the death of one Murugesan, who met with an accident that took place on 02.12.2008, due to the rash and negligent driving of the driver of the appellant Transport Corporation bus, the claimants who are the wife and daughters of the deceased approached the Tribunal. The Tribunal, as against the claim of Rs.5 lakhs made by the respondents herein, on analysing the evidence on record, held that the accident occurred due to the rash and negligent driving of the driver of the appellant/Transport Corporation bus and awarded a sum of Rs.3,37,000/- with interest @ 7.5% p.a. to the claimants. Details of the awards are as follows:

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of dependency [2000x12x13]	Rs.3,12,000/-
2	Loss of consortium	Rs. 10,000/-
3	Love and affection	Rs. 10,000/-
4	Transportation	Rs. 3,000/-
5	Funeral Expenses	Rs. 2,000/-
	Total	Rs.3,37,000/-

4. The only grievance of the appellant is that when there was no proof for the income as well as for the age of the deceased, the Tribunal ought not to have taken the monthly income as Rs.3,000/-, which is on the higher side.

5. According to the claimants, at the time of accident, the deceased was aged 50 years and was an agricultural coolie earning a sum of Rs.5,000/- per month. The Tribunal, however, fixed the monthly income of the deceased at Rs.3,000/- and by adopting multiplier of '13' and deducting 1/3rd towards his personal expenses, granted a sum of Rs.3,12,000/- towards loss of dependency.

6. The Apex Court, in the case of Syed Sadiq Vs. Divisional Manager, United India Insurance Co. Ltd., 2014 (1) TN MAC 459 (SC), in respect of a vegetable vendor, who sustained injuries in an accident which occurred in 2008, determined Rs.6500/- as the monthly income. The accident in this case took place on 02.12.2008. Taking note of the Syed's case referred to above, fixing the income of the deceased at Rs.3,000/- cannot be said to be excessive. Further, a glance of the award would make it clear that the compensation awarded particularly under the head "loss of consortium" is very meagre. Hence, the award of the Tribunal in granting compensation to the tune of Rs.3,37,000/- cannot be said to be erroneous. Therefore, this Court is not inclined to interfere with the compensation awarded by the Tribunal.

7. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. The rate of interest granted by the Tribunal is also confirmed. The appellant/ Transport Corporation Company is directed to deposit the entire award amount together with interest to the credit of M.C.O.P.No.123 of 2009 on the file of the Motor Accident Claims Tribunal [District Judge], Tiruvarur, if not already deposited, within

a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the claimants are entitled to withdraw their respective shares as apportioned by the Tribunal on filing necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

8. The Trial Court is expected to follow the procedures contemplated in the order dated 11.03.2016 passed by a Division Bench of this Court in C.M.A.No.428 of 2016, scrupulously.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

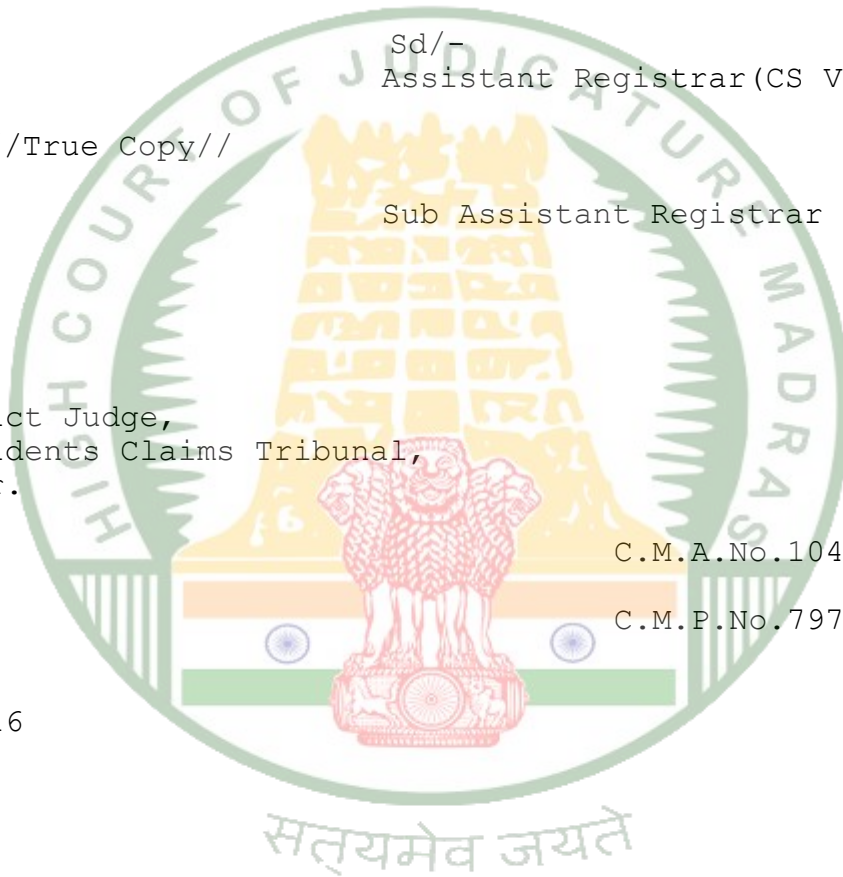
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To :

The District Judge,
Motor Accidents Claims Tribunal,
Thiruvarur.

C.M.A.No.1045 of 2016
and
C.M.P.No.7979 of 2016

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