

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.111 of 2016
and
C.M.P.No.1043 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Chennai - 2.

... Appellant/2nd Respondent

Vs.

1.Malliga

2.Minor Mariappan

(2nd respondent is represented by
natural guardian mother/1st respondent)

... Respondents/Petitioners

3.Marimuthu

... Respondent/1st Respondent

Civil Miscellaneous Appeal filed under Section 173
Motor Vehicles Act, 1988 against the Judgment and decree dated
8.4.2014 passed in MCOP No.77 of 2011 on the file of the Motor
Accident Claims Tribunal (Subordinate Court), Chidambaram.

For Appellant : Mr.P.Paramasiva Doss

For Respondents 1 & 2 : Mr.T.Gobinath
for M/s.Royan Law Associates

JUDGMENT

The Managing Director of the Tamil Nadu State
Transport Corporation, Chennai, has brought this appeal
questioning the correctness of the impugned award dated 8.4.2014
in MCOP No.77 of 2011 passed by the Motor Accident Claims
Tribunal (Subordinate Court), Chidambaram, awarding a sum of
Rs.9,65,000/- together with interest at 7.5% p.a., for the loss
of life of the bread winner, namely, Ramakrishnan, aged about 43
years, on the date of accident.

2. The case of the claimants is as follows:-

On the fateful day, i.e., on 21.10.2010 at about 8.15 p.m.,
the deceased Ramakrishnan was proceeding on his cycle at

Poyyapillai Salai Cross Road southern side on Sirghai to Keerappalayam Bypass road and when he was proceeding from North to South, the bus belonging to the appellant Transport Corporation bearing Reg.No.TN 01 N 6610 rushed from the same direction, being driven by its driver in a rash and negligent manner and without giving horn, dashed against the cycle and caused the accident. Consequently, the victim died on the spot. Hence, the Claim Petition came to be filed before the Tribunal by the claimants seeking for a compensation of Rs.10,00,000/-.

3. Learned counsel appearing for the appellant would submit that the Tribunal has failed to see that there was no proof of negligence attributed against the driver of the appellant Transport Corporation bearing Reg.No.TN 01 N 6610. The Tribunal also failed to bear in mind that mere registration of a case against the driver of the appellant Transport Corporation will not be sufficient to hold negligence on the part of the driver of the appellant Transport Corporation. Adding further, the learned counsel has submitted that the Tribunal has wrongly fixed the notional monthly income of the deceased on the higher side in the absence of any proof thereof. Therefore, on these grounds, the learned counsel appearing for the appellant would submit that the impugned award is liable to be interfered with.

4. It is not in dispute that on the fateful day, i.e., on 21.10.2010 at about 8.15 p.m., the deceased Ramakrishnan met with an accident involving the bus of the appellant Transport Corporation and he died on the spot. Subsequently, the claimants who are wife and minor son of the deceased filed the claim petition claiming a compensation of Rs.10,00,000/-.

5. The Tribunal, on appreciation of oral and documentary evidence made available in the case and the averments made in FIR against the driver of the appellant Transport Corporation, fixed negligence on the part of the driver of the appellant Transport Corporation. Hence, in the considered opinion of this Court, there is nothing to interfere with regard to the question of negligence.

6. In the claim petition, the claimants have stated that the deceased was earning a sum of Rs.500/- to Rs.600/- per day and thus on an average, he was earning a sum of Rs.15,000 to Rs.18,000/- per month. But, the Tribunal, disbelieving the statement in the absence of proper and acceptable documentary evidence to prove the average income of the deceased, keeping in mind that he may earn Rs.250/- per day, fixed a sum of Rs.7,500/- per month as the notional income. Out of the notional monthly income of Rs.7,500, 1/3rd amount was deducted

towards personal expenses of the deceased and as such, Rs.5,000/- was taken as the notional monthly income of the deceased after such deduction. The Tribunal has rightly applied the multiplier '15' as per the Second Schedule of the Motor Vehicles Act since the age of the deceased was 43 years on the date of accident. Therefore, towards the loss of dependency, the amount of compensation has been awarded as Rs.9,00,000 (Rs.5,000 X 12 X 15). This Court feels that the award amount is a just and reasonable one, which does not require the interference of this Court. Then, the Tribunal has awarded a sum of Rs.5,000/- towards funeral expenses and Rs.10,000/- towards medical expenses, which this Court finds them as reasonable. The amount awarded under the conventional heads, i.e., for loss of consortium to the wife of the deceased the sum of Rs.25,000/- and for loss of love and affection to the minor son of the deceased the sum of Rs.25,000/- seem to be just and reasonable and not excessive and exorbitant. In toto, the Tribunal has awarded a total sum of Rs.9,65,000/- with interest 7.5% p.a. from the date of claim petition till the date of deposit.

7. For the reasons stated above, this Court does not think that it is a fit case where the Award of the Tribunal requires interference at the hands of of this Court. Accordingly, the appeal fails and the same is dismissed. No costs. Connected Miscellaneous Petition is closed.

8. The appellant Transport Corporation is directed to deposit the entire award amount including interest and costs, if any, awarded by the Tribunal, less if any amount already deposited, within a period of four weeks from the date of receipt of a copy of this order.

9. On such deposit, the first claimant/first respondent is permitted to approach the Tribunal by filing proper application seeking for withdrawal of her award amount. However, the award amount of the minor claimant/2nd respondent is directed to be deposited in any nationalised bank in a fixed deposit till he attains majority. The first claimant/first respondent is permitted to receive interest once in three months on the deposit of the minor award amount directly from such bank to maintain her minor son.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

asvm

To

The Motor Accident Claims Tribunal/
(Subordinate Court),
Chidambaram.

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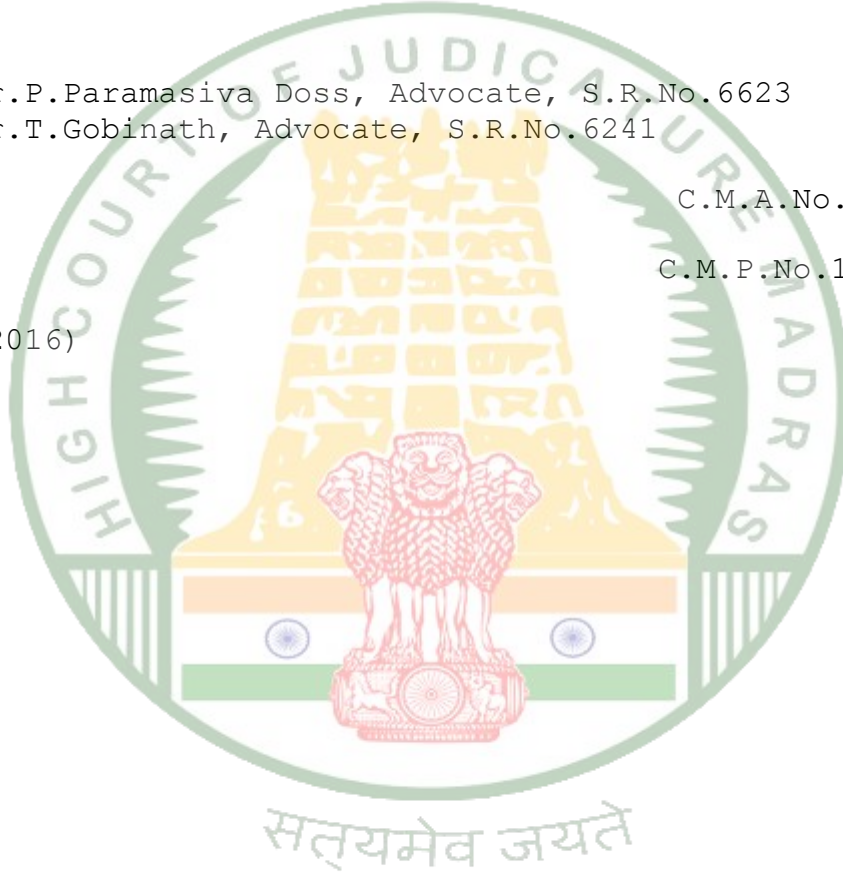
The Managing Director,
TamilNadu State Transport Corporation Ltd.,
Chennai 02.

+1cc to Mr.P.Paramasiva Doss, Advocate, S.R.No.6623

+1cc to Mr.T.Gobinath, Advocate, S.R.No.6241

C.M.A.No.111 of 2016
and
C.M.P.No.1043 of 2016

RSK(CO)
CA(04/05/2016)



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