

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 27.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T. MATHIVANAN

C.M.A.No.1528 of 2016

and

C.M.P.No. 11754 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram) Limited, Kanchipuram Region,
Kanchipuram.

....Appellant/Respondent

Versus

1.S.Ganesan
2.G.Thangam

.... Respondents/Petitioners

Prayer: Civil Miscellanies Appeal has been filed under Section 173 of the Motor Vehicles Act of 1988, against the Judgment and decree dated 29.02.2016 passed in M.C.O.P.No.1640 of 2014 on the file of the Motor Accident Claims Tribunal(The Chief Judge, Court of Small Causes), Chennai.

For Appellant

:Mr.K.J.Sivakumar

JUDGMENT

Questioning the quantum of compensation to the extent of Rs.11,33,000/- as against the original claim of Rs.15,00,000/-, the appellant/Transport Corporation, who is the respondent in the claim petition in MCOP No.1640 of 2014 has preferred the present Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act 1988.

2.Heard Mr.K.J.Sivakumar, learned counsel appearing for the appellant.

3.The respondents 1 & 2 being the claimants had moved the Claims Tribunal,(Chief Judge, Court of Small Causes), Chennai with a claim petition in MCOP No.1640 of 2014 claiming a sum of Rs.15,00,000/- for the death of their son namely G.Chandan Kumar in a road traffic accident, said to have been taken place on 25.04.2013 @ 8 p.m., at Nellikuppam Salai, Kannivakkam, near

Rajaraja Chozhan Nagar, Kancheepuram District, involving a passenger bus bearing Registration No.TN-21-N-1136, belonging to the appellant/Transport Corporation.

4.At the time of accident, the deceased was aged about 19 years. As per the claimants, the deceased G.Chandan Kumar was travelling as a pillion rider in a motorcycle bearing Registration No.TN-21-AW-9313 from Kannivakkam to Guduvancherry at Nellikuppam Salai, when the bus bearing Registration No.TN-21-N-1136, belonging to the appellant/Transport Corporation had hit against the said motorcycle. On account of this impact, the deceased had sustained fatal injuries and succumbed to injuries instantaneously on the spot.

5.The claimants have also claimed that the deceased was a Diesel Mechanic and was earning a sum of Rs.15,000/- per month.

6.The appellant/Transport Corporation had contested the claim petition. According to the appellant/Transport Corporation, three persons were travelling in the above said motorcycle and on account of the negligent act of the rider of the motorcycle, the accident was taken place and the driver of the bus belonging to the appellant/Transport Corporation could not be fastened with negligence.

7.It is also revealed from the records that totally three claim petitions were filed in MCOP Nos.1636, 1637 & 1640 of 2014, before the Claims Tribunal. This Appeal is in respect of the claim petition in MCOP No.1640 of 2014. All the three claim petitions were consolidated together, heard jointly and the common award was passed by the Tribunal on 29.02.2016. Totally, seven witnesses were examined on behalf of the claimants and during the course of their examination Ex.P1 to Ex.P12 were marked and on the other hand the Conductor of the bus namely Mr.Kamalakannan was examined as RW1. The Tribunal discarding the evidence of RW1 and banking heavily on the evidence of the witnesses examined on behalf of the claimants had proceeded to award a sum of Rs.11,33,000/-.

8.The Tribunal based on the evidence of PW3, who is none other than the father of the deceased G.Chandan Kumar, had determined the age of the deceased @ 19 years at the time of occurrence. The Tribunal has also after placing reliance upon the decisions of this Court as well as the Apex Court had determined the monthly income of the deceased @ Rs.6,500/-. Since, he was aged about 19 years, 50% of his actual income was added towards the future prospects. Accordingly, the monthly income of the deceased was determined @ Rs.9,750/- giving 50% deduction towards the Personal and living expenses of the deceased, the remaining 50% was calculated @ Rs.3,250/-. After applying the multiplier of 18, the pecuniary loss of the family

was calculated @ Rs.10,53,000/-. Apart from this, the Tribunal had awarded compensation under the following heads:

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|--------------------------------|-------------|
| (i) Towards love and affection | Rs.50,000/- |
| (ii) Funeral Expenses | Rs.25,000/- |
| (iii) Transport Expenses | Rs.5000/- |

In all, the total Award of the Tribunal comes to Rs.11,33,000/-.

9. This Court after hearing Mr.K.J.Siva Kumar, learned counsel appearing for the appellant and on perusal of the award alongwith other materials available on record, finds that the award itself seems to be fair and proper and does not require the interference of this Court.

10. Therefore, the Civil Miscellaneous Appeal is dismissed at the stage of admission, confirming the award of the Tribunal. Consequently, connected miscellaneous petition is closed. No costs.

11. The appellant / Transport Corporation is directed to pay the entire award amount alongwith proportionate accrued interest @ 7.5% per annum within a period of six weeks from the date of receipt of a copy of this order, less the amount already deposited. On such deposit being made, the respondents/claimants are entitled to withdraw the entire award amount alongwith accrued interest and costs without actually filing any application seeking permission.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
(The Chief Judge, Court of Small Causes),
Chennai.

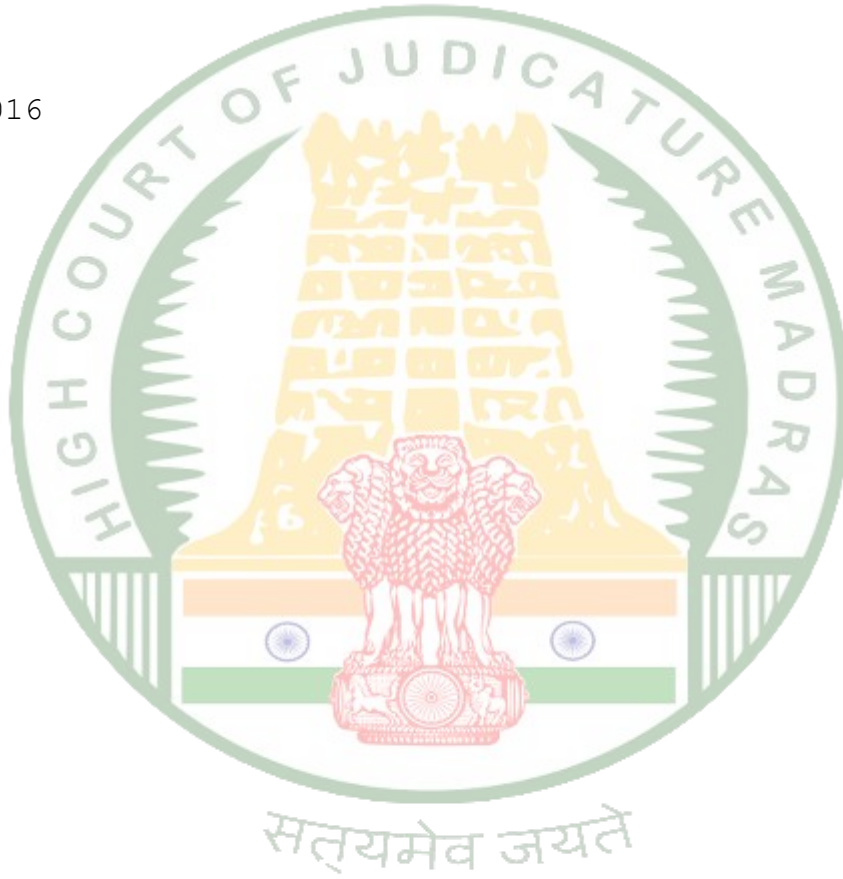
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2.The Section Officer
VR Section High court Madras

+1 cc to M/s.K.J.Sivakumar Advocate sr 47455

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