

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.1697 of 2016

& C.M.P.No.12857 of 2016

Tamil Nadu State Transport Corporation,
rep. by its Managing Director,
having its office at Rangapuram,
Vellore. ... Appellant/Respondent

Versus

1.LingammalW/o Late Theerthagiri
2.Rajalakshmi
3.Sathya
4.Tamizharasan
5.Lingammal W/o Mallan
6.Mallan ... Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 15.12.2015 made in M.C.O.P.No.101/2014 on the file of the Motor Accidents Claims Tribunal (Special Subordinate Judge), Tirupattur.

For Appellant : Mr.S.Sairaman

J U D G M E N T
सत्यमेव जयते

The Managing Director of Tamil Nadu State Transport Corporation has filed the present Civil Miscellaneous Appeal, challenging the correctness of the impugned award dated 15.12.2015 made in M.C.O.P.No.101/2014 on the file of the Motor Accidents Claims Tribunal (Special Subordinate Judge), Tirupattur.

2.Learned counsel appearing for the appellant would submit that the findings of the learned Tribunal in respect of negligence aspect are not properly recorded because it is contrary to the evidence of records and therefore it has to be held as perverse and unsustainable in the eye of law. He would

further submit that the learned Tribunal has wrongly rejected the case of the appellant, by accepting the evidence of claimants' side, without any supporting evidence, more particularly, the First Information Report registered against the driver of the bus, belonging to the Transport Corporation and the learned Tribunal ought to have examined the police officer, who has registered the said FIR. Learned Tribunal has accepted the case of the claimants that the accident was caused only due to the negligent and rash driving of the driver of the bus, belonging to the Transport Corporation, without there being any supportive or corroborative evidence. In respect of the income of the deceased is concerned, learned counsel for the appellant would submit that the learned Tribunal has fixed Rs.6,500/- as monthly income of the deceased, without there being any supportive evidence to prove the monthly income of the deceased, which is wholly misconceived. Therefore, he prays that the impugned award is liable to be set aside.

3. But this Court is not able to find any merits on his submission. Firstly, the deceased, who was aged about 50 years at the time of accident, was doing beedi business and claiming to have earned a sum of Rs.25,000/- per month. Although the claim made by the claimants that the deceased was earning a sum of Rs.25,000/- per month, learned Tribunal, after referring to the averments and finding no document whatsoever was produced to show as to the monthly income of the deceased at Rs.25,000/- per month and rightly following the ratio laid down in Syed Sidiq and two others vs. United India Insurance Company Ltd. reported in 2014 ACJ page 627, has fixed Rs.6,500/- as monthly income of the deceased in the absence of reliable evidence. After fixing notional income of Rs.6,500/- and making deduction of 1/4th of his income towards personal and living expenses, has rightly adopted multiplier '13'. On this score, a sum of Rs.7,60,500/- has been arrived at as a loss of dependency and therefore awarding the said sum cannot be questioned. Secondly, with regard to multiplier, the contention made by the learned counsel that the learned Tribunal ought to have fixed right multiplier, is liable to be rejected for the reason that as per the post mortem report, the age of the deceased was 50 years and therefore, applying the ratio laid down in the case of Sarala Varma, the learned Tribunal has adopted '13' as multiplier.

4. Therefore, this Court is not inclined to interfere with the impugned award and the same is confirmed. Accordingly, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, Connected miscellaneous petition is closed.

5. Since the learned counsel for the appellant submitted that the appellant had deposited a sum of Rs.25,000/- towards statutory deposit, the balance amount is directed to be

deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is for the claimants to move a petition before the Tribunal for withdrawing the said amount.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

vga

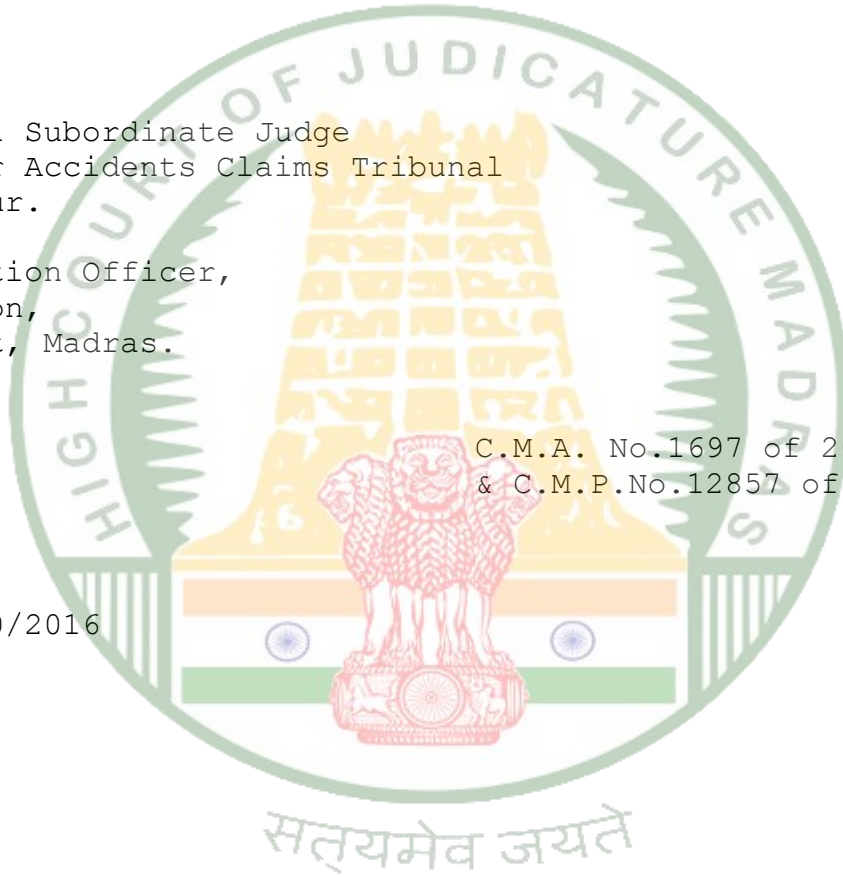
To

1. Special Subordinate Judge
The Motor Accidents Claims Tribunal
Tirupattur.

2.The Section Officer,
V.R.Section,
High Court, Madras.

C.M.A. No.1697 of 2016
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KK (CO)
MD : 22/10/2016



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