

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2016

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
AND
THE HONOURABLE MR. JUSTICE N.AUTHINATHAN

C.M.A.No.1922 of 2016
C.M.P.No.13996 of 2016

The Tamil Nadu State Transport
Corporation Ltd., rep. By its
Managing Director,
Villupuram.

... Appellant/1st Respondent

vs.

1.M.Subashni
2.M.Dhamodaran (Minor)
3.M.Abirami (Minor) ...Respondent 1 to 3/Petitioners
(Minors are represented by their
natural guardian, 1st respondent)
4.M.Pandurangan
... 4th Respondent/2nd Respondent

Civil Miscellaneous Appeal filed under Section 173
Motor Vehicles Act, 1988 against the award and decree, dated
07.12.2015 made in M.C.O.P.No.2553 of 2011, on the file of the
Motor Accidents Claims Tribunal, (IV Court of Small Causes),
Chennai.

For Appellant : Mr.S.Sairaman

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J U D G M E N T

(Judgement of this Court was delivered by S.MANIKUMAR, J.)

Aggrieved by the award, dated 07.12.2015 made in
M.C.O.P.No.2553 of 2011, on the file of the Motor Accidents
Claims Tribunal, (IV Court of Small Causes), Chennai, appellant-
Transport Corporation has preferred this appeal.

2. In the accident, which occurred on 18.06.2010, husband of the first respondent/claimant, aged 39 years, died. According to claimants, at the time of death, the deceased was a Conductor in the appellant-Transport Corporation and earned Rs.7,000/- per month. They claimed compensation of Rs.20,00,000/-. The appellant-Transport Corporation resisted the claim, contending inter alia, that the driver of the bus was not negligent and that therefore, they are not liable to pay compensation. Without prejudice to the above, they have disputed the age, avocation and income of the deceased, and the compensation claimed by the claimants, under various heads. Before the Tribunal, the first respondent/claimant, examined herself as PW.1 and PW.2 is the eye-witness to the accident. Ex.P1 - FIR, Ex.P2 - Conductor's Certificate, Ex.P3 - Accident Register, Ex.P4 - Post-mortem certificate, Ex.P5 - Death Report, Ex.P6 - Death Certificate, Ex.P7 - Legalheirship Certificate, Ex.P8 - Motor Vehicle Inspector's Report, Ex.P9 - Appointment Order and Ex.P10 - Pay Slip of the deceased, have been marked on the side of the respondents/claimants. On behalf of the appellant-Transport Corporation, driver of the bus has been examined as RW.1 and no document has been marked. On evaluation of oral and documentary evidence, the Tribunal found that the driver of the bus, owned by the appellant-Transport Corporation was negligent in causing the accident and consequently, held that the appellant-Transport Corporation liable to pay the compensation and quantified the compensation at Rs.16,25,000/- with interest at the rate of 7.5% per annum.

3. Though several grounds have been raised in the memorandum of appeal, Mr.S.Sairaman, learned counsel for the appellant-Transport Corporation confined his submission only to the quantum of compensation awarded by the Tribunal.

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

4. According to the respondents/claimants, at the time of accident, the deceased was aged about 39 years, worked as a Conductor in the appellant-Transport Corporation and earned Rs.7,000/- per month. Age of the deceased, as per Ex.P4 - Post-Mortem Certificate, was 40 years. After perusal of Ex.P10 - Pay Slip of the deceased, the Tribunal has fixed the monthly income of the deceased at Rs.6,148/- per month. Following the decision in Sarla Verma v. Delhi Transport Corporation and another reported in 2009 (2) TNMAC 1 (SC), the Tribunal added 50% towards future prospects and worked out the monthly income

of the deceased at Rs.9,222/- (Rs.6,148/- + Rs.3,074/-) and after deducting one-fourth of the amount, towards her personal and living expenses, fixed Rs.82,998/- and rounded off to Rs.83,000/- as the annual family contribution.

5. As per Sarla Verma's case (cited supra), the multiplier applicable to the age group of persons, above 40 years is "15". The Tribunal applied the said multiplier. Therefore, application of '15' as multiplier cannot be found fault with. Applying the multiplier as "15", the Tribunal has worked out the loss of contribution to the family as Rs.12,45,000/-. That apart, the Tribunal awarded Rs.1,50,000/- towards loss of love and affection, Rs.5,000/- for transportation, Rs.25,000/- towards Funeral Expenses, Rs.1,00,000/- for loss of estate and loss of consortium and Rs.1,00,000/- towards medical expenses.

6. Though Mr.S.Sairaman, learned counsel appearing for the appellant-Transport Corporation submitted that when the respondents/claimants have not filed any medical records, to prove that they had incurred medical expenses and therefore, the Claims Tribunal ought not to have awarded compensation, under the head, medical expenses, this Court is not inclined to advert to the same, because, prior to the death, the deceased was admitted in Government Hospital and thereafter, referred to MIOT Hospital, Chennai and despite intensive treatment, after three days, died on 20.06.2010. Even though the respondents/claimants have failed to produce any discharge summary to prove that the deceased was hospitalised and taken intensive treatment, Compensation of Rs.1,00,000/- awarded under the head, medical expenditure cannot be said to be erroneous. Going through the award, this Court finds no reason to interfere with the overall quantum awarded by the Tribunal.

7. In the result, the Civil Miscellaneous Appeal is dismissed. The appellant-Transport Corporation is directed to deposit the entire award amount, with proportionate accrued interest, if not already deposited, to the credit of M.C.O.P.No.2553 of 2011, on the file of the Motor Accidents Claims Tribunal, (IV Court of Small Causes), Chennai, within a period of six weeks from the date of receipt of a copy of this order, if not deposited earlier.

8. On such deposit, except the minor claimants/respondents 2 and 3, the other respondents are permitted to withdraw the same, by making necessary applications before the Tribunal. Share of the minors shall be deposited in any one of the Nationalised Bank, proximate to the residence of

the 1st respondent/mother, in a fixed deposit, renewable periodically, until minors attain majority. Interest accrued on such deposit is permitted to be withdrawn once in three months, by the 1st respondent-mother. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

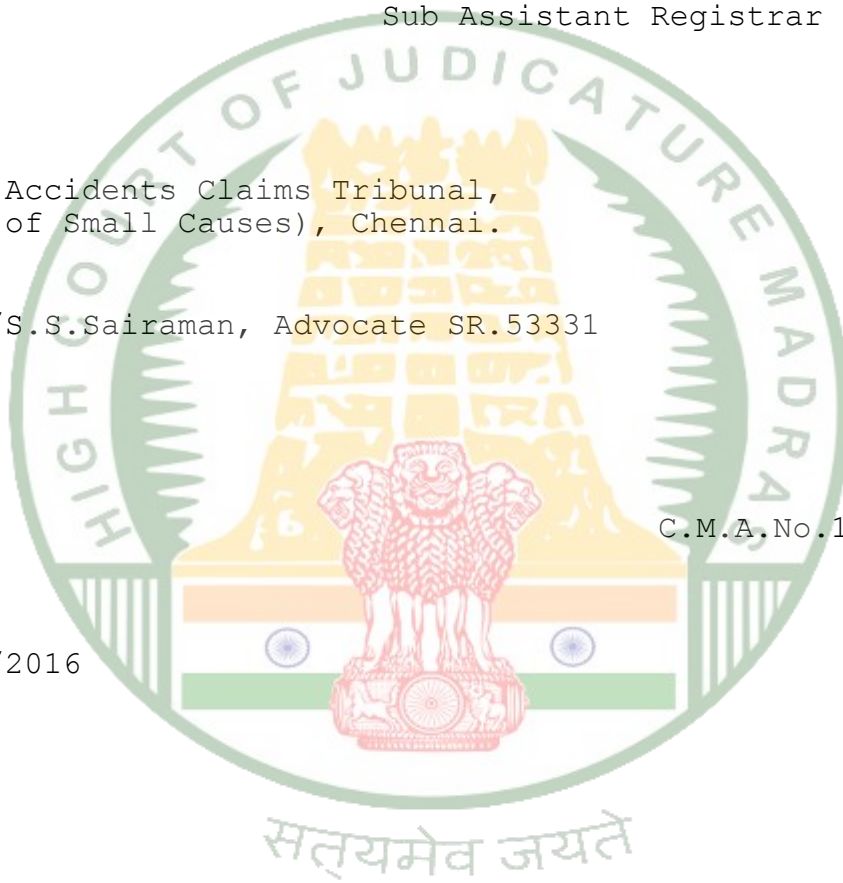
To

The Motor Accidents Claims Tribunal,
(IV Court of Small Causes), Chennai.

+1cc to M/S.S.Sairaman, Advocate SR.53331

C.M.A.No.1922 of 2012

mp[col]
srg 22/11/2016



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