

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.1932 of 2016

The Managing Director
Tamil Nadu State Transport Corporation Limited
Kumbakonam ... Appellant/1st Respondent

-Vs-

1. Mrs.Indhira
W/o Perumal
2. Minor Vijayasathya
S/o Perumal
3. Minor Vijayasaran
S/o Perumal
Minors 2, 3 respondents are represented by
mother and natural guardian 1st respondent
4. Mrs.Marimuthu
W/o Munusamy
5. The United India Insurance Company
No.97G, Thervadaku veethi
Opp,to old bus stand
Seerkali (R5-Given up) ... Respondents/Petitioners
& 2nd Respondent

Memorandum of Grounds of Civil Miscellaneous Appeal under
Section 173 of the Motor Vehicles Act, 1988 against the award
and decree dated 09.04.2012 made in M.C.O.P.No.190 of 2009 on
the file of the Motor Accident Claims Tribunal, Additional
Subordinate Judge, Mayiladuthurai.

For Appellant : Mr.V.S.Vijay Veliappan

JUDGMENT

The Managing Director of Tamil Nadu State Transport
Corporation Limited, Kumbakonam has questioned the quantum of
compensation awarded by the Motor Accident Claims Tribunal
(Additional Subordinate Judge), Mayiladuthurai in M.C.O.P.No.190

of 2009 dated 9.4.2012, awarding a sum of Rs.6,19,000/-, as against the claim of Rs.10,00,000/-, along with interest at the rate of 7.5% per annum from 28.4.2009 till the date of realisation payable to the claimants, for the loss of life of the breadwinner of the claimants' family, aged about 35 years, said to be carrying sweet stall business and thereupon earning a sum of Rs.25,000/- per month.

2. Heard the learned counsel for the appellant.

3. It is not in dispute that the breadwinner of the claimants, namely, Perumal, aged about 35 years, had died in the accident on 27.7.2008 while walking as a pedestrian due to the rash and negligent act of the driver of the appellant Corporation while driving the bus bearing Registration No.TN 49 N 1448 and a finding has also been rendered by the Tribunal in this regard. For arriving at the quantum of compensation towards loss of income to the claimants' family, the Tribunal, without accepting the case of the claimants' that the deceased was earning a sum of Rs.25,000/- per month, citing a reason that there was no acceptable evidence shown before the Court to prove the monthly income of the deceased, has fixed the nominal monthly income at Rs.4,000/-. After making a deduction of one-third towards the personal and living expenses of the deceased and applying the multiplier of '17', the Tribunal has arrived at the loss of income at Rs.5,44,000/- ($\text{Rs.}48000 \times 17 \times 2/3 = \text{Rs.}5,44,000/-$). However, the Tribunal has not added anything towards the future prospects, as per the ratio laid down by the Apex Court in Sarala Verma's case, 2009 (2) TN MAC 1 (SC) and even with regard to award of compensation towards loss of consortium, since the deceased left his wife aged about 25 years to shoulder the entire family responsibility, it has awarded only a sum of Rs.25,000/- towards loss of consortium and a sum of Rs.40,000/- alone has been awarded towards loss of love and affection, apart from Rs.5,000/- each towards transportation and funeral expenses, to arrive at the total compensation of Rs.6,19,000/-. Had the Tribunal added 50% of the actual monthly salary of the deceased i.e., Rs.2,000/- per month towards the future prospects along with a reasonable amount towards the loss of consortium, probably the quantum of compensation would have been on the higher side. Therefore, this Court, finding that the Tribunal has not added 50% of the actual salary of the deceased towards the future prospects and also in not awarding a reasonable sum towards the loss of consortium, does not find merits in the appeal. Accordingly, the civil miscellaneous appeal is dismissed. Consequently, C.M.P.No.14056 of 2016 is also dismissed. It appears that the appellant Transport Corporation, even after the award was passed on 9.4.2012, has not deposited any amount, except the statutory amount of Rs.25,000/-. Therefore, for the reason that they have

unnecessarily prolonged the matter, the appellant is directed to deposit the entire balance award amount along with interest at the rate of 9% per annum to the credit of the M.C.O.P.No.190 of 2009 on the file of the Motor Accident Claims Tribunal, Additional Subordinate Judge, Mayiladuthurai within a period of four weeks from the date of receipt of a copy of this order and on such deposit, it is for the claimants to withdraw the apportioned amount along with accrued interest by moving appropriate applications before the Tribunal.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ss

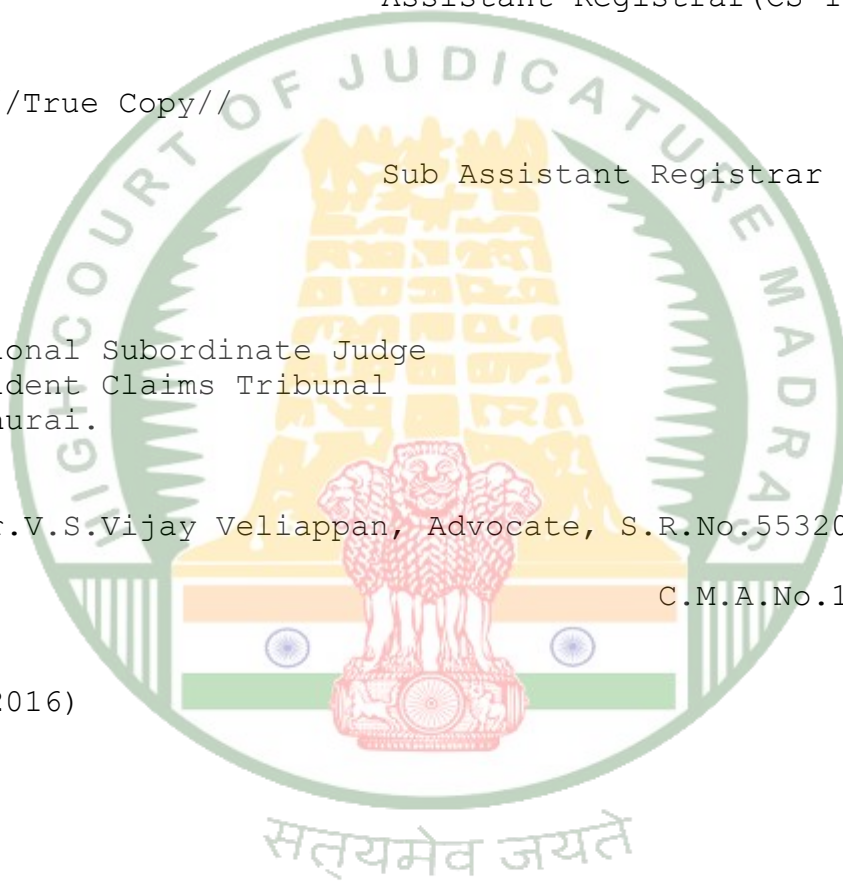
To

The Additional Subordinate Judge
Motor Accident Claims Tribunal
Mayiladuthurai.

+1cc to Mr.V.S.Vijay Veliappan, Advocate, S.R.No.55320

C.M.A.No.1932 of 2016

MSM(CO)
CA(25/10/2016)



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