

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.1981 of 2016

Managing Director
Tamil Nadu State Transport
Corporation
(Coimbatore)
37, Mettupalayam Road
Erode

..Appellant/Respondent

-vs-

1. Thiruvankadam
S/o E.K.Ramasami

2. Minor Suvathika
D/o Thiruvankadam rep.by father
and next friend 1st respondent

..Respondents/Petitioner

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 20.09.2012 made in M.C.O.P.No.569 of 2010 on the file of the Motor Accident Claims Tribunal, I Additional District Judge, Tiruppur.

For Appellant ::Mrs.R.T.Sundari

For Respondents::Mr.MA.P. Thangavel, for
Resondents 1&2

JUDGMENT

The Managing Director of Tamil Nadu State Transport Corporation (Coimbatore) Limited, Erode has brought this appeal challenging the impugned award passed by the Motor Accident Claims Tribunal (I Additional District Judge), Tiruppur in M.C.O.P.No.569 of 2010 dated 20.9.2012, awarding a sum of Rs.11,99,000/-, as against the claim of Rs.20,00,000/-, along with interest at the rate of 7.5% per annum payable to the claimants, for the loss of life of the spouse of the first respondent, aged about 30 years, in the accident while serving as a Beautician.

2. Heard the learned counsel for the appellant.

3. It is not in dispute that on 1.5.2010 at about 5.00 hours, the spouse of the first respondent, namely, Jothimani was riding the TVS-50 two-wheeler bearing Registration No.TN 41 D 7793 from south to north in the Dharapuram road in a normal speed observing all the traffic rules and regulations. It is at this point of time the offending vehicle bearing Registration No. TN 33 N 2099 belonging to the appellant, driven by its driver came from north to south direction in a rash and negligent manner without following the road rules, dashed against the said Jothimani. Due to the accident, she sustained grievous injuries all over her body. Thereafter, she was immediately taken to Government Hospital, Tiruppur and after the best efforts of the duty doctor, she succumbed to the injuries. Therefore, a case in Crime No.3170 of 2010 on the file of Tiruppur South Police Station was registered against the driver of the offending vehicle belonging to the appellant for the offence under Sections 279, 337 & 304(A) of IPC and subsequently the claim petition was filed. The Tribunal, giving a finding with regard to the question as to who was the negligent party for the cause of the accident, has rightly held the driver of the offending vehicle belonging to the Corporation as guilty of rash and negligent driving due to which the spouse of the first respondent died and consequently saddled the liability on the Corporation, being the owner of the vehicle. After deciding both the negligence and liability aspects against the Corporation, the Tribunal has arrived at the quantum of compensation to be paid to the claimants. But before fixing the notional monthly income of the deceased, the Tribunal has considered the evidence adduced by P.Ws.1 & 2, who have consistently deposed that the deceased was earning a sum of Rs.10,000/- per month as a Beautician by running a beauty parlour in Tiruppur. However, the Tribunal, disbelieving their evidence, has fixed Rs.6,000/- as the notional monthly income of the deceased, for the reason that there was no documentary evidence produced and thereafter keeping in mind that the deceased died at the age of 30 years, instead of adopting '17' multiplier, it has adopted '16' in this case. Again the Tribunal, without adding any percentage of actual salary towards the future prospects, has worked out the loss of dependency in a sum of Rs.11,52,000/-. While coming to the award of compensation under the non-pecuniary heads, it has awarded a sum of Rs.20,000/- towards the loss of consortium to the first respondent-husband, Rs.10,000/- each to the claimants towards loss of love and affection apart from Rs.2,000/- towards transportation and Rs.5,000/- towards funeral expenses. While so, it is not known how the Transport Corporation has decided to file appeal against the impugned award. Therefore, finding no merits whatsoever, the civil miscellaneous appeal is dismissed. Consequently, C.M.P.No.14262 of 2016 is also dismissed. Since the learned counsel for the Transport Corporation has submitted

that the entire award amount has already been deposited before the Tribunal along with interest thereon, it is open to the first respondent claimant to withdraw the apportioned amount together with the accrued interest by moving appropriate application before the Tribunal.

Sd/-
Assistant Registrar(V)

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Sub Assistant Registrar

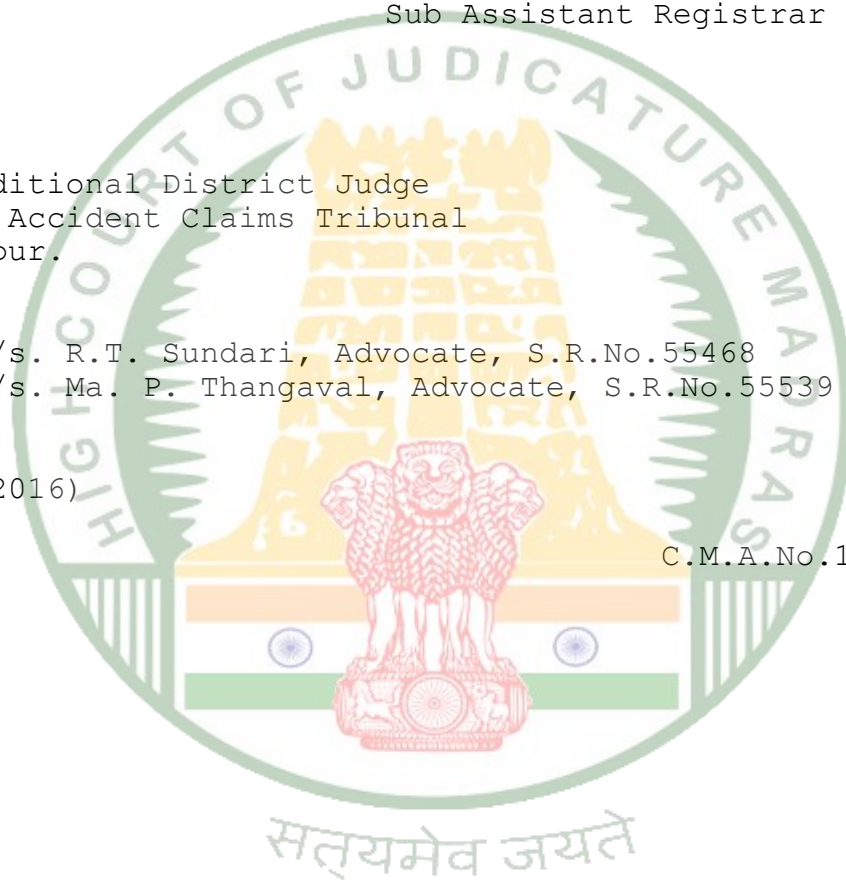
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To
The I Additional District Judge
Motor Accident Claims Tribunal
Tiruppur.

+1cc to M/s. R.T. Sundari, Advocate, S.R.No.55468
+1cc to M/s. Ma. P. Thangaval, Advocate, S.R.No.55539

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