

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2001 of 2016

Tamil Nadu State Express Transport
Corporation Ltd.,
Pallavan Salai, Chennai
rep.by its Managing Director,
Chennai

.. Appellant

-vs-

1. M.Mani
2. M.Ayyappan
3. Minor M.Karthick
(Minor 3rd respondent rep.by his
next friend, guardian and father
M.Mani/R1)

.. Respondents

Memorandum of Grounds of Civil Miscellaneous Appeal under
Section 173 of the Motor Vehicles Act, 1988 against the award
and decree dated 08.01.2016 made in M.C.O.P.No.195 of 2014 on
the file of the Motor Accident Claims Tribunal, Principal
District Judge, Perambalur.

For Appellant :: Mr.K.J.Sivakumar

JUDGMENT

The Tamil Nadu State Express Transport Corporation Limited, assailing the impugned award passed by the Motor Accident Claims Tribunal, Principal District Judge, Perambalur in M.C.O.P.No.195 of 2014 dated 8.1.2016 awarding a sum of Rs.8,52,000/-, as against the claim of Rs.15,00,000/-, for the loss of life of the wife of the first respondent and mother of the other respondents/claimants, aged about 36 years, who was eking out her livelihood as a Mason Assistant and earning a sum of Rs.12,000/- per month, has filed this appeal on the ground that the Tribunal ought not to have considered the evidence of P.W.2, who claimed to have witnessed the accident, when her version has not been supported by any corroborative evidence. Secondly, it was contended by the learned counsel for the appellant that the Tribunal has placed much reliance only on the registration of First Information Report against the driver of the bus belonging to the appellant for the purpose of bringing the case of the claimants under the rash and negligent act. Thirdly, it was

contended that there was no evidence, oral and documentary, produced before the Tribunal by the claimants to prove the income of the deceased, although their claim was that the deceased was earning Rs.12,000/- per month and the Tribunal, in the absence of any proof, has wrongly fixed Rs.6,000/- and after deducting 1/3rd thereof towards the personal expenses, adopting the multiplier '15', arrived at the sum of Rs.7,20,000/- towards the loss of income ($\text{Rs.}4000 \times 12 \times 15 = \text{Rs.}7,20,000/-$). Therefore the award granting a sum of Rs.8,52,000/- as the total compensation is liable to be interfered with, he pleaded.

2. This Court hardly finds any justification to entertain this appeal. The reason is that it is a case of death of the wife of the first respondent, who was aged about 36 years and working as a Mason Assistant and earning a reasonable monthly income. While so, on 4.1.2014, when the wife of the first respondent was proceeding from her house to Samayapuram temple on foot to have darshan of the Goddess presiding deity, at about 4.00 A.M., on 5.1.2014, a bus bearing Registration No.TN 01 N 7200 belonging to the appellant Corporation coming from north to south direction, driven by its driver at a very high speed, dashed against the poor pedestrian while overtaking another bus which was going ahead of the bus belonging to the appellant, as a result the wife of the first respondent sustained fatal injuries all over her body. Though she was admitted as an in-patient in the Government Headquarters Hospital, Tiruchirappalli on the same day, in spite of the treatment, she succumbed to the injuries on 8.1.2014. The claimants also registered a case in Crime No.7 of 2014 under Sections 279 & 337 of IPC against the offending driver of the vehicle before the Siruganur Police Station. Thereafter, the respondents made a claim before the Tribunal stating that the deceased was working as a Mason Assistant and earning a sum of Rs.400/- per day with the monthly income of Rs.12,000/-. But the Tribunal, to find out whether the accident took place due to the rash and negligent driving of the driver of the bus belonging to the Corporation, on the basis of the evidence of P.W.2, who was an eye-witness to the accident, taking support from the First Information Report, Ex.P1 registered against the offending driver, has given a clear finding that the accident was caused due to the rash and negligent driving by the driver of the bus. On that basis, the appellant has been held liable to pay the compensation to the claimants.

3. With regard to the quantum of compensation to be paid to the claimants, the Tribunal, after considering the evidence adduced by P.W.1, the husband of the deceased, to the effect that his wife, aged about 36 years, was working as a Mason Assistant and earning Rs.12,000/- per month and also considering Ex.P4, xerox copy of the family card in which the claimants were shown as family members and also Ex.P5, legal heirship certificate stating that the claimants are the legal heirs of

the deceased, finding that no proof of income was filed, considering the age of the deceased, has come to the conclusion that had she been alive she would have earned Rs.6,000/- per month and on this score only a sum of Rs.6,000/- was fixed as the notional monthly income of the deceased, as P.W.1 had proved that she was working as a Mason Assistant and earning a reasonable monthly income. However, after fixing Rs.6,000/- as the notional monthly income of the deceased, 1/3rd thereof has been deducted towards personal expenses and the Tribunal has adopted the multiplier '15' which, in my considered opinion, is perfectly in order, as per the ratio laid down by the Apex Court in Sarla Verma's case reported in 2009 (2) TN MAC 1 (SC), wherein for the age group 36-40, '15' has been fixed as the multiplier. Therefore the Tribunal has rightly arrived at the loss of income at Rs.7,20,000/- i.e., $Rs.4000 \times 12 \times 15 = Rs.7,20,000/-$. The Tribunal has also awarded a sum of Rs.50,000/- towards loss of consortium, Rs.50,000/- towards loss of love and affection and Rs.20,000/- and Rs.10,000/- towards funeral expenses and transportation charges respectively, apart from Rs.2,000/- towards damage to cloths. When the Tribunal has awarded the compensation towards loss of consortium and loss of love and affection also to the claimants, on the basis of the ratio laid down by the Apex Court in Rajesh and others v. Rajbir Singh and others, 2013 (3) CTC 883, this Court is not able to find any error or infirmity with the impugned award for a total compensation of Rs.8,52,000/- with 7.5% interest per annum. Accordingly, finding no merits, the civil miscellaneous appeal is dismissed. Consequently, C.M.P.No.14458 of 2016 is also dismissed.

4. As the learned counsel for the appellant submitted that only the statutory amount of Rs.25,000/- has been deposited, the appellant is directed to deposit the entire balance award amount along with interest to the credit of the M.C.O.P.No.195 of 2014 on the file of the Motor Accidents Claims Tribunal (Principal District Judge), Perambalur 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 by moving appropriate applications before the Tribunal.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

SS

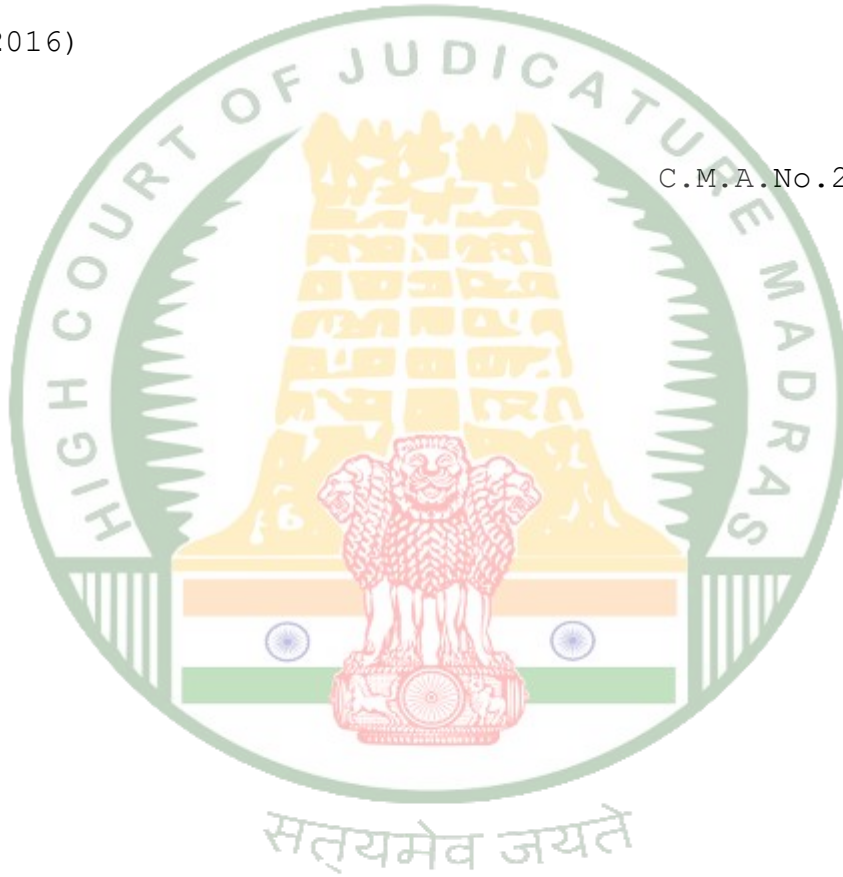
To

The Principal District Judge
Motor Accident Claims Tribunal
Perambalur.

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.54854

SVI (CO)
EU (07/11/2016)

C.M.A.No.2001 of 2016



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