

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2027 of 2016

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Villupuram Division-I
Villupuram .. Appellant/Respondent

-Vs-

1. Thulasiammal
W/o Mani
2. Komalavalli
D/o Mani
3. Amirtham
D/o Mani
4. Minor Rathinavelu
S/o Mani rep.by his mother
and natural guardian 1st respondent
5. Radhammal
W/o Angaiyan .. Respondents

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 22.07.2014 made in M.C.O.P.No.535 of 2010 on the file of the Motor Accidents Claims Tribunal, (District Judge, District Court-II) Kanchipuram.

For Appellant :: Mr.P.Paramasivadoss

JUDGMENT

This appeal is directed against the impugned award passed by the Motor Accidents Claims Tribunal (District Judge, District Court-II), Kanchipuram, awarding a sum of Rs.5,00,000/- together with 7.5% interest per annum, as against the claim of Rs.15,00,000/-, in favour of the claimants, who lost their breadwinner in the accident.

2. Heard the learned counsel for the appellant.

3. On 2.11.2005 at about 19.45 hours, when the breadwinner of the claimants, namely, Mani and one Sivakumar were standing near the Tractor bearing Registration No.TN 21 C 2356 with Trailer bearing Registration No.TN 21 A 3908, which was parked on the road side for attending to the puncture/sudden break down, a bus belonging to the Transport Corporation bearing Registration No.TN 32 N 2083 coming from Arakkonam to Kanchipuram direction is said to have dashed against the said Mani and Sivakumar. Due to the accident, both Mani and Sivakumar sustained fatal injuries. Although they were immediately taken to the nearby Government Hospital at Kanchipuram for medical assistance, the doctors declared that Mani was dead and the post-mortem report issued by the Kanchipuram Government Hospital indicated that the death of Mani had occurred only due to the impact caused in the accident. Finally, when the claim was made for Rs.15,00,000/-, the Tribunal, finding fault with the rash and negligent driving of the driver of the bus belonging to the Corporation, accepting the evidence of P.W.2, an eye-witness stating that the bus dashed against the punctured tractor with trailer, has fixed Rs.4,500/- as the monthly income of the deceased and after deducting 1/3rd thereof towards personal expenses, it has calculated the compensation payable towards loss of future dependency at the rate of Rs.3000 x 12 by adopting the multiplier '11' and awarded Rs.3,96,000/-. Therefore, the contention of the learned counsel for the appellant that the fixation of Rs.4,500/- as the monthly salary of the deceased without there being any proof is wholly untenable, cannot be accepted,. It may be mentioned herein that this Court has repeatedly held that even in the absence of any document to prove the monthly income of the deceased, it is always open to the Tribunal or this Court to fix the maximum of Rs.6,500/- as the monthly income. But in the present case, the Tribunal has fixed Rs.4,500/- as the monthly income of the deceased, in the absence of any definite proof. With regard to the multiplier also, the Tribunal has adopted the multiplier '11' considering the age of the victim. Therefore, the adoption of multiplier by the Tribunal is also as per the ratio laid down by the Apex Court in Sarala Verma's case, after deducting 1/3rd towards personal expenses. For these reasons, this Court does not find any infirmity in the award of the Tribunal directing payment of Rs.5,00,000/- to the claimants along with interest at the rate of 7.5% per annum. Accordingly, the civil miscellaneous appeal fails and it is dismissed. Consequently, C.M.P.No.14819 of 2016 is also dismissed.

4. The appellant be and hereby is directed to deposit the entire award amount along with interest to the credit of the

M.C.O.P.No.535 of 2010 on the file of the Motor Accidents Claims Tribunal (District Judge, District Court-II), Kanchipuram within a period of four weeks from the date of receipt of a copy of this order. (4) On such deposit, it is for the claimants to withdraw the apportioned amount by making appropriate application before the Tribunal.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

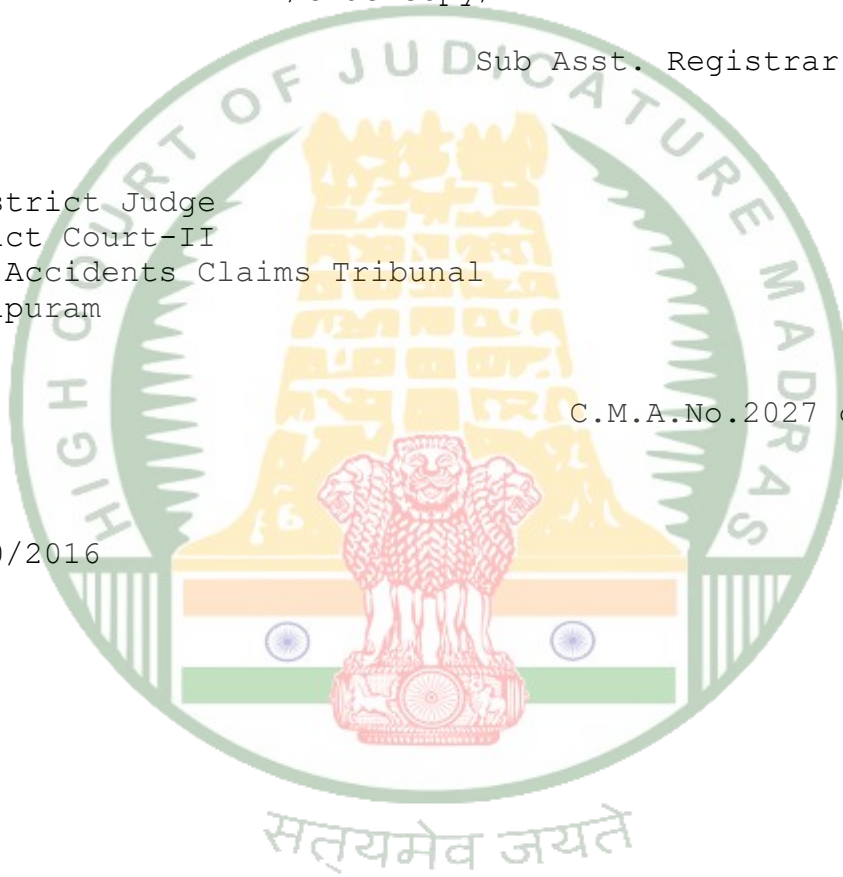
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To

1. The District Judge
District Court-II
Motor Accidents Claims Tribunal
Kanchipuram

C.M.A.No.2027 of 2016

CTR (CO)
MD : 19/10/2016



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