

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.203 of 2016
and C.M.P.No.1734 of 2016

The Managing Director,
TNSTC Kumabkonam Limited
Railway Station New Road,
Kumbakonam Town.

Respondent

... Appellant/2nd

vs.

1. Jeevitha @ Nadhiya

2. Minor Agash
S/o. Late Kathiravan

3. Minor Tharun
S/o. Late Kathiravan

4. Minor Pratheesh
S/o. Late Kathiravan

5. Govindan

6. Lakshmi

(Minor respondents 2 to 4 are
represented through their
mother and guardian, the first
respondent).

7. Thennarasu

... Respondents 1 to 6/Petitioners

....7th Respondent/1stRespondent

Civil Miscellaneous Appeal is filed under Section 173 of
Motor Vehicles Act, 1988 against the award and decree dated
31.07.2015 passed in M.C.O.P.No.18 of 2013 on the file of the
Motor Accidents Claims Tribunal (District Court), Karaikal.

For Appellant : Mr.D.Venkatachalam

For Respondents: Mr.Bharatha Chakravarthi

JUDGMENT

(Judgment of the Court was delivered by R.SUDHAKAR,J.)

The Tamilnadu State Transport Corporation is on appeal challenging the award dated 31.07.2015 passed in M.C.O.P.No.18 of 2013 on the file of the Motor Accidents Claims Tribunal (District Court), Karaikal.

2. It is a case of fatal accident. The accident in this case happened on 01.02.2012 at about 21.10 hours, when the deceased Kathiravan was going to his father-in-law's house from Keezhamoovarkarai, Sirkazhi in his new Bajaj Pulsar Motor cycle, on Poovam Main Road, near Government High School, the appellant transport corporation bus came in an opposite direction rashly and negligently and hit against the deceased, as a result, the deceased sustained head injuries. Immediately, the deceased was taken to the Government Hospital, Karaikal and after giving initial treatment, he was referred to Vinodhagan Memorial Hospital Private Ltd., Thanjavur, where he died. FIR was registered against the driver of the bus. The claimants, who are wife aged 25 years, three minor children, aged 6, 4 and 1 years respectively, father, aged 55 years and mother, aged 54 years of the deceased have filed a claim for compensation for a sum of Rs.75,00,000/-. According to the claimants, the deceased was working as Captain in Fishing Vessel in Qatar Government and was earning a sum of Rs.50,000/- per month.

3. In support of the claim, the wife of the deceased was examined as P.W.1 and one Ashok was examined as P.W.2. and Ex.P-1 to Ex.P.18 were marked, the details of which are as follows:-

Ex.No.	Date	Details
P1	01.02.2012	Copy of the FIR
P2	27.7.2011	Copy of the Registration Certificate of 2nd respondent bus
P3	11.09.1992	Copy of driving licence of the 1st respondent
P4	13.01.1987	Birth Certificate of the 1st Petitioner
P5	14.02.2006	Birth Certificate of the 2nd Petitioner
P6	25.11.2007	Birth Certificate of the 3rd Petitioner

Ex.No.	Date	Details
P7	08.03.2010	Birth Certificate of the 4th Petitioner
P8	22.04.2005	Marriage Certificate of the 1st Petitioner
P9	03.04.1996	Original Passport of the deceased Kathiravan
P10	25.05.2006	Original Passport of the deceased Kathiravan
P11	19.12.2009	Copy of visa issued by the Government of Qatar
P12	19.12.2011	Copy of visa issued by the Government of Qatar
P13	Various dates	Medical bills (2Nos). series
P14	Various dates	Money transfer receipts series
P15	Nil	Photograph of the petitioners
P16	19.12.2011	Service identity card of the petitioner issued by the Qatar Government
P17	07.02.2012	Postmortem certificate
P18	08.09.2009	Certificate issued by the Qatar Government in the name of the deceased.

On behalf of the appellant transport corporation, no witnesses were examined and no documents were marked before the Tribunal.

4. The Tribunal based on the oral evidence of the witnesses, the F.I.R. and also taking note of the fact that the deceased was having valid driving licence to drive the two wheeler came to conclusion that the driver of the appellant transport corporation bus was rash and negligence and was responsible for the accident and consequently liability was fixed on the appellant transport corporation to compensate the claimants. On this issue, learned counsel for the appellant has no serious objection with regard to the finding of the Tribunal as no material has been placed to come to a different conclusion from that of the conclusion arrived by the Tribunal.

5. Based on the oral and documentary evidence, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of pecuniary benefits to the dependents of the deceased (Rs.20,000/-x 12 x $\frac{3}{4}$ x 16 = Rs.28,80,000/-)	Rs.28,80,000/-
2	Loss of love and affection	Rs. 60,000/-
3	Medical Expenses	Rs. 1,05,110/-
4	Loss of consortium to the wife	Rs. 20,000/-
5	Transport expenses	Rs. 10,000/-
6	Funeral expenses	Rs. 10,000/-
	Total	Rs.30,85,110/- (rounded off to Rs.30,85,000/-)

6. Insofar as the compensation is concerned, based on the evidence of the first claimant as against the income of Rs.50,000/- per month claimed, the Tribunal fixed the income of the deceased at Rs.20,000/- per month in respect of the 35 years old deceased, a captain in a fishing vessel in the Government of Qatar, which is very reasonable and is justified.

7. The Tribunal deducted $\frac{1}{4}$ towards personal expenses of the deceased. This appears to be justified in view of the large family that he was supporting.

8. The only serious objection is with regard to multiplier adopted by the Tribunal stating that 16 multiplier is higher and the actual multiplier should be 15. The Tribunal adopted 16 multiplier in terms of Second Schedule to Section 163A of the Motor Vehicles Act, considering the age of the deceased who was 35 years old at the time of death and this is in consonance of the Apex Court's decision in Sarla Verma - vs. - Delhi Transport Corporation, 2009(2) TNMAC 1 (SC). Therefore, this Court finds no good reason to reduce the multiplier and the quantum of compensation awarded. The Tribunal has awarded only a sum of Rs.20,000/- towards loss of consortium to a young wife aged 25 years, which is very meagre. Also, the Tribunal has awarded a sum of Rs.60,000/- towards loss of love and affection to the three children and father and mother (totally 5 persons), which is also very meagre.

9. There is no serious objection in respect of the other amounts granted or the interest granted at 7.5% per annum.

10. Finding no merit, the Civil Miscellaneous Appeal is dismissed at the admission stage. Counsel for the appellant prays eight weeks' time to deposit the award amount and is

granted. On such deposit the major claimants are permitted to withdraw their respective share as ordered by the Tribunal. The share of the minors shall be deposited in any one of the Nationalised Bank initially for a period of three years and to be renewable thereafter periodically, till they attain major. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

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Sub Asst. Registrar

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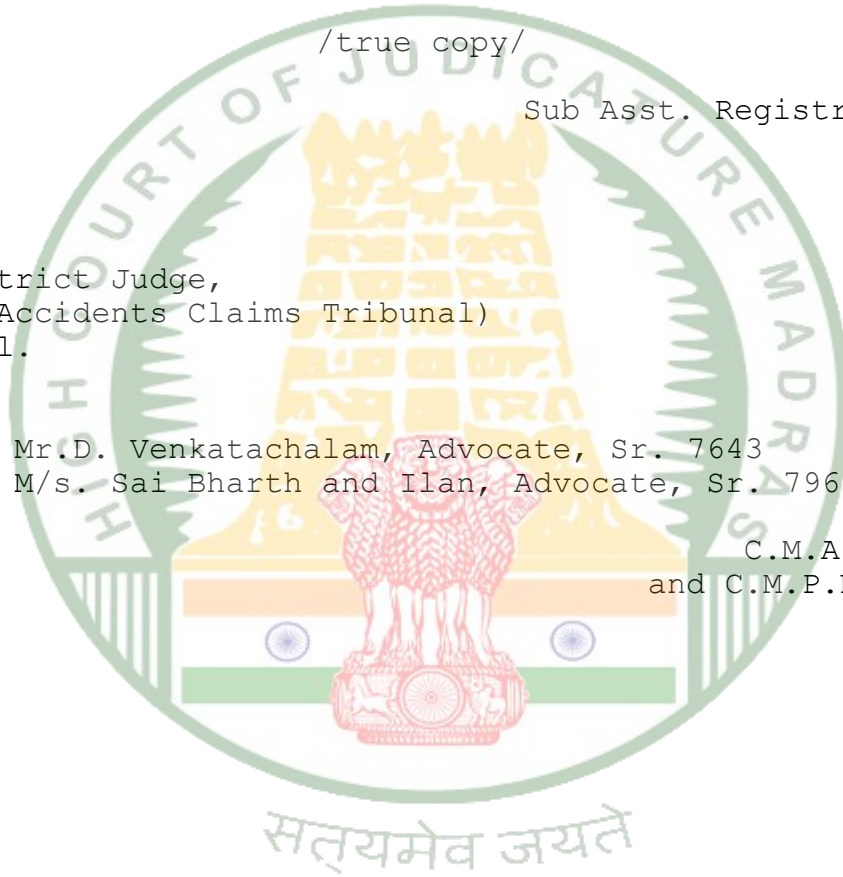
The District Judge,
(Motor Accidents Claims Tribunal)
Karaikal.

1 cc to Mr.D. Venkatachalam, Advocate, Sr. 7643

1 cc to M/s. Sai Bharth and Ilan, Advocate, Sr.7965

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AD (CO)
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