

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. Nos.2148 and 2149 of 2016
& C.M.P.Nos.15438 and 15439 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
3/137, Salamedu, Vazhuthareddy,
Villupuram. ... Appellant/1st Respondent
in both cases

Versus

1.Nithiya
2.Govindammal
3.Kasivel ... Respondents/Petitioner/Respondent 2
and 3 in C.M.A. No.2148 of 2016

1.Govindammal
2.Kasivel
3.Nithiya ... Respondents/Petitioners/2nd
respondent in C.M.A. No.2149 of 2016

PRAYER in both cases: Civil Miscellaneous Appeals filed under
Section 173 of Motor Vehicles Act, 1988 against the judgment and
decree dated 01.03.2013 made in M.C.O.P.Nos.227 and 263/2009 on
the file of the Motor Accidents Claims Tribunal, (Subordinate
Court), Gingee.

For Appellant in both cases : Mr.P.Paramasivadoss

COMMON JUDGMENT

The Managing Director of Tamil Nadu State Transport
Corporation has filed the present Civil Miscellaneous Appeals,
challenging the correctness of the impugned award dated
01.03.2013 made in M.C.O.P.Nos.227 and 263/2009 on the file of
the Motor Accidents Claims Tribunal, (Subordinate Court), Gingee.

2.The case of the claimants is that on 15.08.2009 at about 02.35 hours, when the deceased travelling in the back side of the TNSTC bus bearing Registration No.TN32-N-2371, plying from Chennai to Gingee, the driver of the bus drove the same in a rash and negligent manner. As a result, the deceased was thrown away from the bus and sustained head injuries and multiple injuries all over the body. The deceased died on the way to the hospital. According to the claimants, the accident was happened due to the rash and negligent driving of the driver of the bus.

3.As the deceased was a married man, due to difference of opinion between the wife of the deceased and her in-laws, 2 M.C.O.Ps were filed. M.C.O.P. No.227 of 2009 has been filed by the wife of the deceased and M.C.O.P. No.263 of 2009 has been filed by the parents of the deceased.

4.Learned counsel appearing for the appellant would submit that the deceased himself has invited the accident by travelling in the foot board of the bus and hence the claimants are not entitled to get compensation. He would further submit that when the deceased was serving as Milk Vendor and Head Masion, the learned Tribunal has fixed Rs.4,500/- as notional monthly income of the deceased, without there being any material to show his monthly income. Adding further, he would submit that since the deceased was aged about 30 years at the time of accident, the multiplier should be '17', as per the ratio laid down by the Hon'ble Apex Court in the case of Sarla Verma (2009(2) TN MAC 1 SC) But the Tribunal has wrongly applied the multiplier '18' and on this score, a huge amount has been fixed towards compensation and therefore, the impugned award is liable to set aside.

5.Learned counsel for the Transport Corporation would fairly submit that after the award was passed, the entire award amount including interest namely Rs.9,35,000/- has been deposited by the appellant/Transport Corporation and the claimants have also withdrawn the entire amount. In view of the above, when the entire amount, deposited by the Transport Corporation, has been withdrawn by the claimants, this Court may not be in a position to adjudicate the issue raised in the appeal.

6.Moreover, the learned Tribunal has fixed Rs.4,500/- as notional monthly income, refusing to accept Rs.25,000/- as claimed by the claimants. As per the ratio laid down by the Hon'ble Apex Court in the case of Rajesh and others vs. Rajbir

Singh and others reported in 2013 (2) TN MAC 55 (SC), which has categorically mentioned that with regard to the head 'loss of love and affection', a minimum sum of Rs.50,000/- should be fixed towards loss of love and affection, the learned Tribunal has fixed only a sum of Rs.25,000/- towards loss of love and affection. Therefore, this Court is not able to find any merit in the appeals. Accordingly, the Civil Miscellaneous Appeals fail and the same are dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

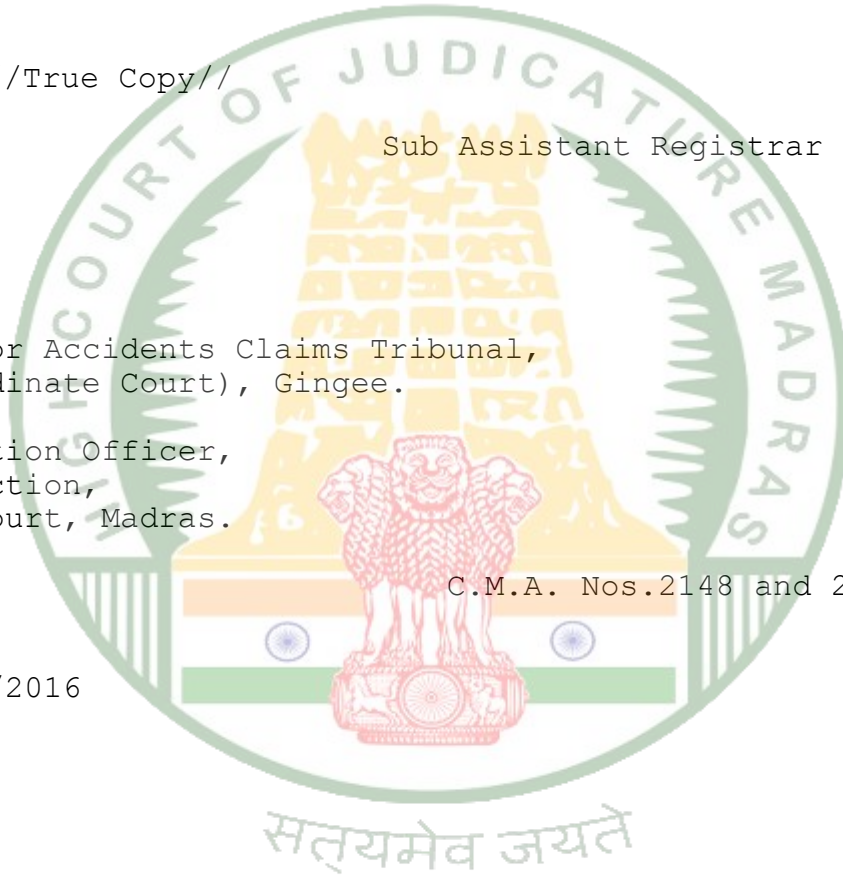
To

1.The Motor Accidents Claims Tribunal,
(Subordinate Court), Gingee.

2.The Section Officer,
V.R.Section,
High Court, Madras.

C.M.A. Nos.2148 and 2149 of 2016

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srg 14/11/2016



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