

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.10.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.2396 of 2016 &
C.M.P.No.16643 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam Limited. ... Appellant/Respondent

Versus

1.Selvamani
2.Dhamayanthi ... Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the judgment and decree dated 26.04.2016 made in M.C.O.P.No.132/2014 on the file of the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate), Ariyalur.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

The Civil Miscellaneous Appeal filed by the appellant/Transport corporation is directed against the correctness of the impugned award dated 26.04.2016 made in M.C.O.P.No.132/2014 on the file of the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate), Ariyalur, in and by which the Tribunal has awarded a sum of Rs.17,45,000/- with 9% interest per annum, as against the total claim of Rs.25,00,000/-. Aggrieved by the impugned award, the Transport Corporation has preferred this appeal.

2.According to the claimants, on 27.12.2013 at about 8.30 p.m., while the deceased, namely Ranjitha, who was a student studying second year in A.T.S.V.S. Siddha Medical College and Hospital, Munchirai, Kanniyakumari District, travelling in a bus bearing Registration No.TN 45 N 3016 belonging to appellant/Transport Corporation, from her native village to Kanniyakumari, which was driven in a rash and negligent manner without following traffic rules, dashed against the back side of the lorry bearing Registration No.TN 67 D 3747 and caused accident. Due to the said impact, the said Ranjitha died on the spot itself. The claimants are father and mother of the

deceased. They claimed a sum of Rs.25,00,000/- as compensation. The appellant/Transport Corporation resisted the claim.

3.After considering the oral and documentary evidence, the Tribunal held that the accident had occurred only due to the rash and negligent driving of the driver of the appellant-Transport Corporation and awarded a sum of Rs.17,45,000/- as compensation payable to the claimants with interest at the rate of 9% p.a.. Aggrieved by that award, the appellant-Transport Corporation has filed the present appeal.

4.Heard Mr.D.Venkatachalam, learned counsel for the appellant and perused the documents on record. On the side of the claimants, P.Ws.1 and 2 were examined and documents Exs.P1 to P9 were marked. On the side of the appellant/Transport Corporation, RW1-Balasubramanian, the Conductor of the bus was examined.

5.Learned counsel appearing for the appellant would submit that the Tribunal has wrongly fixed notional monthly salary of the deceased at Rs.10,000/-, which is wholly exorbitant. Adding further, he would submit that in the absence of any material evidence to prove the monthly income of the deceased, a sum of Rs.6,500/- has to be taken as a notional monthly income of the deceased. But in the present case, being a second year student studying in Siddha Medical College, without any basis, the Tribunal has fixed Rs.10,000/- as notional monthly income and also fixed an exorbitant rate of interest at 9% p.a. Therefore, the present appeal has been filed for negligence and modification of quantum of the compensation.

6.It is relevant to mention that with regard to deduction, as the deceased was a spinster, the Tribunal has rightly deducted 50% towards deduction following the decision laid down by the Hon'ble Apex Court in the case of Sarla Verma (Smt.) and others vs. Delhi Transport Corporation and another reported in 2009 (6) SCC 121 and as the deceased was in the age group of 15-20 at the time of accident, the Tribunal has applied the correct multiplier of '18' and following the decision of the Hon'ble Supreme Court in the case of Santhosh Devi vs. National Insurance Company Limited reported in 2012 (2) TNMAC 1 (SC) which held that even a self-employed victim is also entitled to addition of 50% of the actual income towards future prospects, the Tribunal, after fixing Rs.10,000/- as notional monthly income of the deceased and by adding 50% towards future prospects, has rightly fixed the monthly income at Rs.10,000/- + 5,000/- = Rs.15,000/-. The Tribunal has arrived at pecuniary loss at Rs.16,20,000/- which in my view, cannot be found fault with. The Tribunal has awarded a sum of Rs.1 lakh towards loss of love and

affection which is very reasonable. The reason is that the parents lost their daughter and the deceased was Medical College Student, therefore, had she been alive, she would have taken care of the parents by working hard. The documents viz., Ex.P7-1st year mark sheet of the deceased and Ex.P8-the Merit Certificate clearly show that she was a meritorious student. Ex.P9 shows that she got Siddha medical seat on merits under Government quota and the college has lost meritorious student. The Tribunal, keeping in mind all these vital aspects, has rightly fixed Rs.10,000/- as notional monthly income of the deceased. The Tribunal while accepting the evidence of PW1, has taken a support of Ex.P1-FIR marked by the claimants to prove the accident and liability. The evidence of PW2 corroborated the case of the claimants that the driver of the bus dashed on the backside of the lorry and as a result, the accident had occurred due to the rash and negligent driving of the driver of the offending vehicle. Therefore, the Tribunal has rightly awarded a sum of Rs.1 lakh towards love and affection, following the dictum 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 is reasonable and again, it has awarded a sum of Rs.25,000/- towards funeral expenses and the same is very reasonable.

7.Thus, in my view, the same cannot be disturbed. Had the deceased not died in the accident, he would have lived for full span of her life and would have contributed substantially to her family and to the society as a Doctor. Therefore, by applying the principles of just and reasonable compensation, this Court, by dismissing the C.M.A., confirms the award passed by the Tribunal. Accordingly, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, Connected miscellaneous petition is closed.

8.Since the learned counsel for the appellant submitted that the appellant has deposited Rs.25,000/- towards statutory deposit, the balance amount is directed to be deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is for the claimants to move a petition before the Tribunal for withdrawing the said amount.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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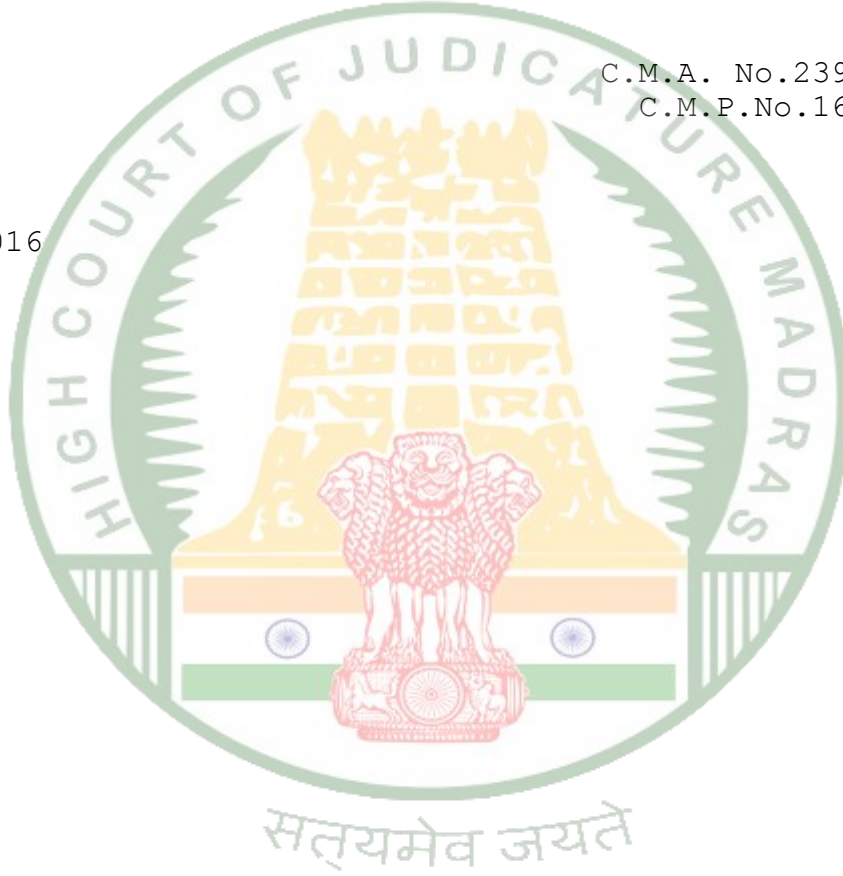
To

1. The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Ariyalur.

+1 cc to Mr.D.Venkatachalam Advocate sr 61043

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