

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2016

CORAM

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

C.M.A.No.2640 of 2015
and M.P.No.1 of 2015

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

vs.

1.K.Dilshad
2.R.Kadhar ... Respondents/Petitioners 1 and 2.

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 09.03.2015 passed in M.C.O.P.No.277 of 2013 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge Court), Tiruttani.

For Appellant : Mr.P.Paramasivadoss

For Respondents: Not ready in notice.

JUDGMENT

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

The Transport Corporation is on appeal challenging the award dated 09.03.2015 passed in M.C.O.P.No.277 of 2013 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge's Court), Tiruttani.

2. It is a case of fatal accident. On 21.09.2013, at about 6.00 p.m., while the deceased-K.Badhusha was riding his motor cycle bearing Reg.No.TN-07-T-6384, the driver of the appellant/transport corporation bus bearing Reg.No.TN 21 N 1014 drove the same in a rash and negligent manner without seeing the person seated in the motorcycle on the left side of the road, dashed against him, as a result, K.Badhusha sustained fatal injuries and died on the same day. The claimants, who are father

and mother have filed a claim for compensation for a sum of Rs.18,96,000/-. According to the claimants, the deceased was working as Motor Winding Worker in Noor Mohammad Rewinding Shop and was earning a sum of Rs.300/- per day.

3. In support of the claim, the mother of the deceased was examined as P.W.1; one Murali, said to have witnessed the accident was examined as P.W.2 and one Mohamed, Employer of the deceased was examined as P.W.3 and Ex.P-1 to Ex.P-4 were marked, the details of which are as follows:-

Ex.No.	Details
P1	Copy of FIR
P2	Copy of Post Mortem Certificate
P3	Legal Heir Certificate
P4	Wages Certificate

On behalf of the Insurance Company, no witness was examined and no exhibit was marked before the Tribunal.

4. The Tribunal based on the oral evidence of the witnesses and the F.I.R. came to conclusion that the driver of the appellant/transport Corporation bus was rash and negligent 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.12,96,000/-
2	Loss of love and affection	Rs. 50,000/-
3	Mental Agony	Rs. 40,000/-
4	Funeral expenses	Rs. 20,000/-
	Total	Rs. 14,06,000/-

6. It is seen that the Tribunal by taking into consideration the evidence deposited by P.W.3, fixed the monthly income of the deceased at Rs.9,000/-. Further, on the basis of the Post Mortem Certificate, fixed the age of the deceased at 19 years and adopted multiplier of 18. Further, relying on the decision

reported in Sarla Verma and Others Vs. Delhi Transport Corporation & Another reported in 2009(2) TN MAC 1 (SC), 1/3rd of the income was reduced and worked out the compensation towards loss of income as under:-

Rs.6,000/- x 12 x 18 = Rs.12,96,000/-.

7. Though a serious objection has been raised by the learned counsel for the appellant/transport corporation with regard to the income fixed by the Tribunal, this court, while considering the age of the deceased at the time of accident viz., 19 years, is of the view that the income fixed at Rs.9,000/- and 1/3rd deduction towards personal expenses and adopting multiplier of 18 is perfectly justified as the Tribunal had not granted any amount towards future prospects of the deceased.

8. Insofar as the compensation under other conventional heads are concerned, we are of the view that the same are just and proper. Hence, this court finds no interference in the compensation granted by the Tribunal.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed.

- (i) The award of the Tribunal fixed at Rs.14,06,000/- is confirmed.
- (ii) The interest granted by the Tribunal at 7.5% per annum is confirmed.
- (iii) This Court by order dated 22.12.2015 directed the appellant/transport corporation to deposit the entire award amount along with accrued interest and costs.
- (iv) The claimants are permitted to withdraw the award amount along with accrued interest as apportioned by the Tribunal.
- (v) There will be no order as to costs in this appeal.
- (vi) Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CO)

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Sub Asst. Registrar

nvsri

To

1, The Subordinate Judge,
Motor Accident Claims Tribunal.
Tiruttani,

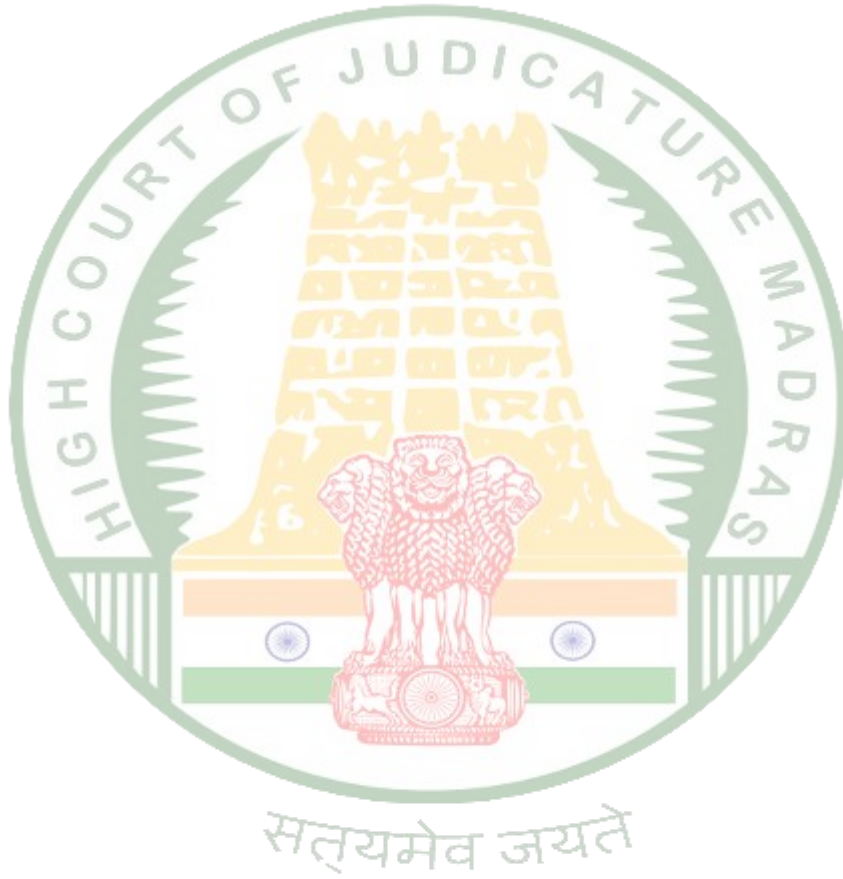
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2. The Section Officer
VR Section,
High Court, Madras

1 cc to M/s.P. Paramasivados, Advocate, Sr. 17505

C.M.A.No.2640 of 2015
and M.P.No.1 of 2015

MP (CO)
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