

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2016

CORAM

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

C.M.A.No.2804 of 2015
& M.P.No.1 of 2015

The Managing Director
Tamil Nadu State Transport Corporation,
(VPM) Ltd., Kanchipuram Region,
Kanchipuram ... Appellant/Respondent

Vs.

1. Mrs.Saaral
2. Min.S.Lietheeshwaran
3. Min.S.Sanjana
4. K.Nagarajan
5. Mrs.Bhuvaneshwari
(Minors 2 and 3 are rep. by
their mother R1) ... Respondents/Petitioners

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 13.02.2013 passed in M.C.O.P.No.1948 of 2012 on the file of the Motor Accidents Claims Tribunal (II Small Causes Court), Chennai.

For Appellant : Mr.Paramasivadoss

For Respondents : Mr.A.Varadha Kamaraj

JUDGMENT

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

The Transport Corporation is on appeal challenging the award dated 13.02.2013 passed in M.C.O.P.No.1948 of 2012 on the file of the Motor Accidents Claims Tribunal (II Small Causes Court), Chennai.

2. It is a case of fatal accident. On 07.03.2012, at about 12.00 hours, when the deceased, Sambasivam, aged 29 years, was

travelling as a pillion rider in the Motor Cycle bearing Registration No.TN-07-P-6108 proceeding from Tambaram to Chengalpattu, near Singaperumal Koil Bus Stop, the bus bearing Registration No.TN-32-N-1757 belonging to the appellant transport Corporation came in a rash and negligent manner, hit the motorcycle and ran over the said Sambasivam. As a result, the said Sambasivam died on the spot. The claimants, who are wife aged 27 years, son, 5 years, daughter, 3 years, father, aged 55 years and mother, aged 50 years of the deceased have filed a claim for compensation for a sum of Rs.20,00,000/-. According to the claimants, the deceased was working as a driver and was earning a sum of Rs.12,000/- per month.

3. In support of the claim, the wife of the deceased was examined as P.W.1; one J.Naveen, who is stated to be eye witness to the accident was examined as P.W.2 and Ex.P-1 to Ex.P.6 were marked, the details of which are as follows:-

Ex.No.	Details
P1	Copy of F.I.R. in Cr.No.162/12 registered as Traffic Investigation
P2	Postmortem Certificate
P3	Death Certificate
P4	Legal heirs Certificate
P5	Salary Certificate
P6	Copy of driving licence of the deceased.

On behalf of the appellant Transport Corporation, A.Sekar, conductor of the bus was examined as R.W.1 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 rider of the vehicle 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, 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 .N o.	Head	Amount granted by the Tribunal
1	Loss of pecuniary benefits to the dependents of the deceased(7,500 x 12 x 18)	Rs. 16,20,000/-
2	Loss of love and affection	Rs. 2,50,000/-
3	Loss of consortium to the wife	Rs. 1,00,000/-
4	Funeral expenses	Rs. 10,000/-
	Total	Rs. 19,80,000/-

6. Insofar as the quantum of compensation is concerned, based on the evidence of the first claimant as against the income of Rs.12,000/- per month claimed, the Tribunal fixed the income of the deceased at Rs.10,000/- per month in respect of the 29 years old deceased, which is very reasonable and is justified.

7. The Tribunal deducted 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 18 multiplier is higher and the actual multiplier should be 17. The Tribunal adopted 18 multiplier in terms of Second Schedule to Section 163A of the Motor Vehicles Act, considering the age of the deceased who was 29 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 not awarded any sum towards future prospects and therefore, even if the multiplier is reduced, the quantum of compensation gets neutralised, if compensation towards future prospects is added.

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 majority. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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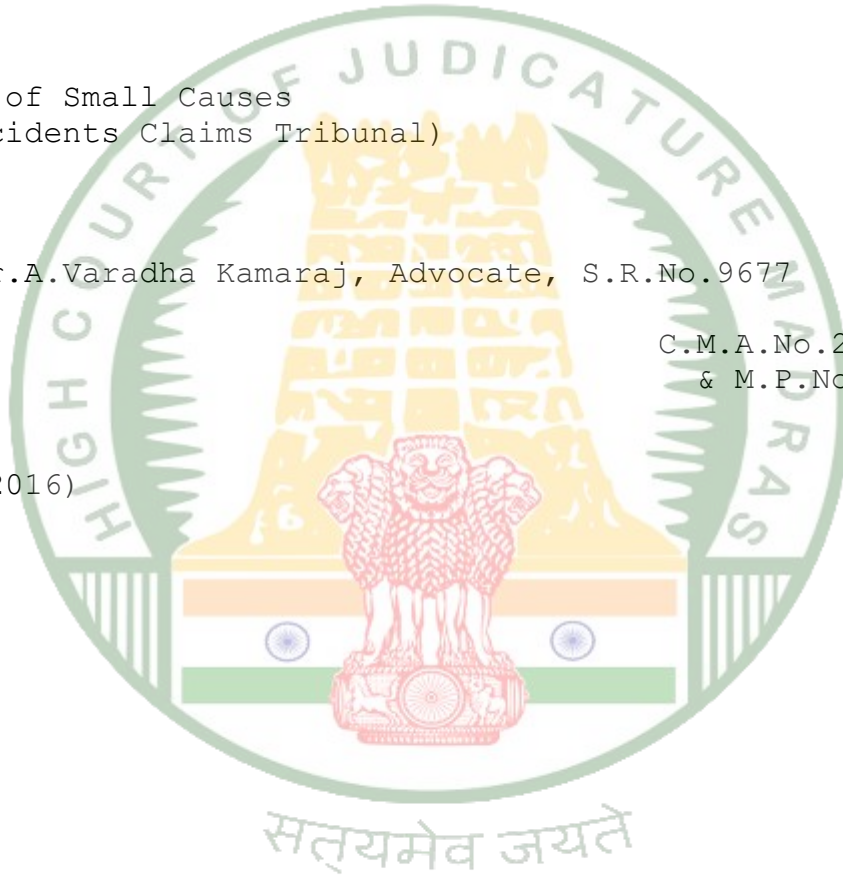
To

The Court of Small Causes
(Motor Accidents Claims Tribunal)
Chennai.

+1cc to Mr.A.Varadha Kamaraj, Advocate, S.R.No.9677

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PPA(CO)
CA(22/03/2016)



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