

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2870 of 2015
and
M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Vellore,
Villupuram Division -2. Appellant/R2

vs.

1.Kalaivani
2.Minor Sathish
3.Minor Jeevitha R1 to R3/Petitioners
(2nd and 3rd minors are represented
by their natural guardian mother and
next friend Kalaivani).
4.Muniappan R4/R1
5.Loganthan R5/R3

Civil Miscellaneous Appeal filed under Section 173 Motor Vehicles Act, 1988 against the Judgment and decree dated 21.4.2015 in MCOP No.109 of 2009 passed by the Motor Accident Claims Tribunal (Subordinate Court), Arni, Tiruvannamalai District.

For Appellant सत्यमेव जयते : Mr.P.Paramasiva Doss

JUDGMENT

The Managing Director of the Tamil Nadu State Transport Corporation, Villupuram Division -2, has brought this Civil Miscellaneous Appeal questioning the correctness of the impugned award dated 21.4.2015 in MCOP No.109 of 2009 passed by the Motor Accident Claims Tribunal (Subordinate Court), Arni, Thiruvannamalai District, awarding a sum of Rs.8,45,928/-, for the loss of life of the bread winner of the claimants, namely, Margabandu, aged about 27 years, in the accident that had taken place on 8.5.2009 at 6.45 p.m., near Pakmarpetttai Kalamman Kovil on Polur to Vellore Road, due to rash and negligent

driving made by the driver of the offending vehicle, namely, Bus bearing Reg.No.TN 23 N 1397 belonging to the appellant Transport Corporation.

2. Mr.P.Paramasiva Doss, learned counsel appearing for the appellant, would submit that the Tribunal has committed a serious mistake in not properly applying the correct multiplier, which is 17, as it has wrongly applied an incorrect multiplier '18' and as a result, the total compensation payable to the claimants have been unnecessarily and unreasonably inflated, thereby causing financial loss to the Transport Corporation. The Tribunal has also failed to verify the correctness of the registration of the case against the driver of the vehicle belonging to the appellant Transport Corporation and the tribunal has proceeded merely on the basis of registration of the criminal case against the driver of the offending vehicle and this alone is not sufficient to show that the accident was caused due to the rash and negligent driving of the driver of the vehicle. This apart, the Tribunal has overlooked the negligence attributed against the deceased. For these reasons, he prayed this Court to interfere with the impugned award and modify the same by awarding a reasonable compensation to the claimants/respondents.

3. Heard the learned counsel appearing for the appellant and perused the impugned award.

4. This Court has to agree with the contention raised by the learned counsel for the appellant that the Tribunal has applied a wrong multiplier '18' instead of '17'. However, it is seen that the Tribunal has awarded only a sum of Rs.50,000/- under the head towards loss of consortium to the wife of the deceased. This Court feels that the aforesaid compensation is not just and reasonable and is not in consonance with the ratio laid down by the Apex Court in Rajesh and others vs. Rajbir Singh and others [(2013) 9 Supreme Court Cases 54]. In that case, the Apex Court while emphasising the importance of awarding reasonable compensation to the spouse who had lost the companion, has clearly and categorically held that the Tribunal and the Courts should award a minimum compensation of Rs.1,00,000/-. In the present case, the Tribunal has awarded only a sum of Rs.50,000/- for the loss of life of the bread winner of the family and hence, following the ratio laid down in Rajesh's case, the compensation awarded under the head loss of consortium is increased to Rs.1,00,000/- to the wife/claimant.

5. However, the error committed by the Tribunal in applying the wrong multiplier '18' instead of '17' has to be re-determined. The Tribunal while fixing the notional monthly

income of the deceased at Rs.5,000/-, deducted 1/3rd of the said amount towards personal expenses of the deceased. Applying the correct multiplier '17', as per the ratio laid down by the Apex Court in Sarla Verma and others Vs. Delhi Transport Corporation Ltd., and another [(2009) 6 SCC 121], the loss of compensation towards loss of dependency is arrived as follows: Rs.6,79,999.99 (Rs.3333.33 X 12 X 17) rounded off to Rs.6,80,000. Hence, the total compensation awarded is modified as follows:-

1	Loss of dependency	Rs.6,80,000
2	Funeral expenses	Rs. 10,000
3	Transport expenses	Rs. 5,000
4	Loss of belongings	Rs. 1,000
5	Loss of consortium to the wife of the deceased	Rs.1,00,000
6	Loss of love and affection to the claimants/respondents 2 & 3 (each Rs.30,000 only)	Rs. 60,000
	Total	Rs.8,56,000

Thus, the total award amount is re-determined as Rs.8,56,000/- (Rupees eight lakhs and fifty six thousand only), which will carry interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit as ordered by the Tribunal.

6. Accordingly, the impugned Award is modified. The appeal is dismissed with the above modification in the Award. No costs. Connected Miscellaneous Petition is closed.

7. It is stated that the appellant Transport Corporation has deposited only a sum of Rs.25,000/- while filing the appeal as a statutory deposit. Hence, the appellant Transport Corporation is directed to deposit the entire award amount along with interest and costs, if any, awarded by the Tribunal, less if any amount already deposited, to the credit of MCOP No.109 of 2009 on the file of the Motor Accident Claims Tribunal (Subordinate Court) Arni, within a period of four weeks from the date of receipt of a copy of this order.

8. On such deposit, the first claimant/first respondent is permitted to withdraw her award amount by filing proper application before the Tribunal. However, the award amount of the minor claimants/respondents 2 and 3 shall be deposited in a fixed deposit in any nationalised bank till they attain majority and the first claimant/respondent is permitted to receive

interest thereon once in three months directly from such bank to maintain the minors.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

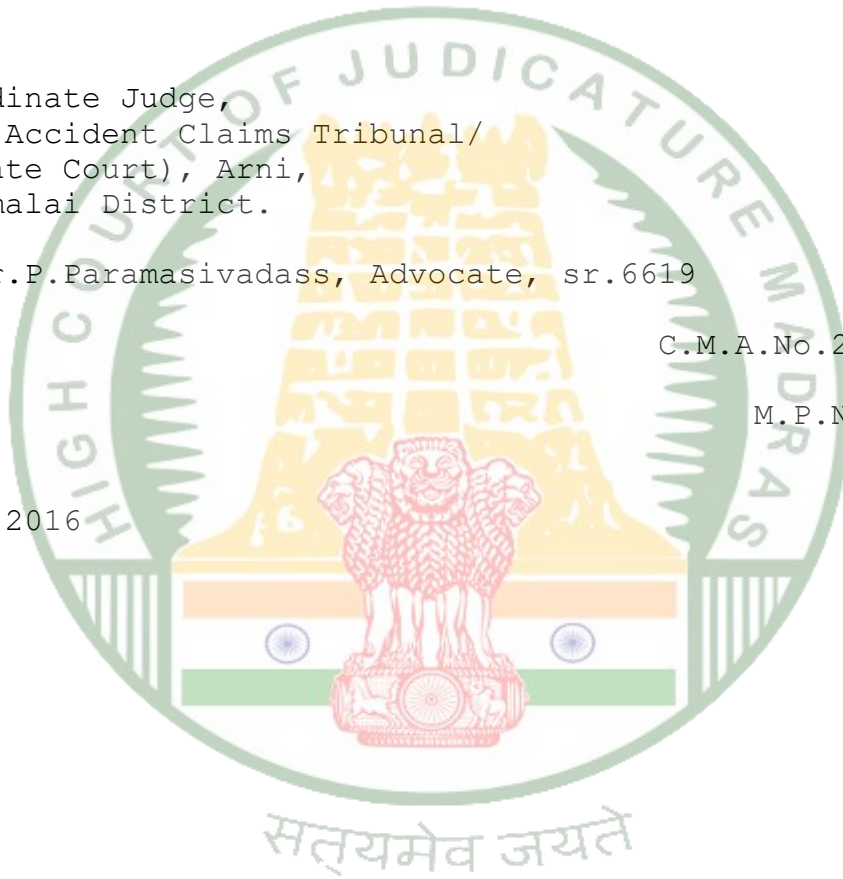
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To
The Subordinate Judge,
The Motor Accident Claims Tribunal/
(Subordinate Court), Arni,
Tiruvannamalai District.

1 cc to Mr.P.Paramasivadass, Advocate, sr.6619

C.M.A.No.2870 of 2015
and
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