

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2016

CORAM

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

C.M.A.No.26 of 2016
and C.M.P.No.126 of 2016

The Managing Director,
Tamilnadu State Express
Transport Corporation Ltd.,
Chennai - 2.

... Appellant/Respondent

vs.

1.Palaniammal
2.Minor Menaka
3. Minor Akasaya
4. Minor Kavya
5. Arunaikannu
(Minor respondents 2 to 4 are
represented through their
mother and guardian, the first
respondent).

... Respondents/Petitioners

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 19.12.2014 passed in M.C.O.P.No.32 of 2012 on the file of the Motor Accidents Claims Tribunal (Subordinate Court), Chidambaram.

For Appellant : Mr.P.Paramasivados
For Respondents: Mr.T.Gopinath

JUDGMENT

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

The Tamilnadu State Transport Corporation is on appeal challenging the award dated 19.12.2014 passed in M.C.O.P.No.32 of 2012 on the file of the Motor Accidents Claims Tribunal (Subordinate Court), Chidambaram.

2. It is a case of fatal accident. The accident in this case happened on 13.09.2011 at about 6.00 pm, when the deceased Settu @ Govindaraj was riding as pillion rider in the Hero Honda vehicle bearing Registration No.TN51 S 2016 driven by one Alagarsamy from Sirkazhi to Puthur. At that time, the appellant transport corporation bus came in an opposite direction rashly and negligently, thereby caused the accident. In that accident the said Alagarsamy suffered serious injuries and the Settu @ Govindaraj, suffered severe head injuries, as a result, he died on the spot. The deceased was taken to the Government Hospital, Sirkazhi, where post-mortem has been conducted. FIR was registered against the driver of the bus. The claimants, who are wife aged 32 years, three minor daughters, aged 10, 7 and 2 respectively and mother, aged 60 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 lorry driver and was earning a sum of Rs.12,000/- per month.

3. In support of the claim, the rider of the Hero Hondo vehicle was examined as P.W.1; the wife of the deceased was examined as P.W.2; Dr.Balamurugavel was examined as P.W.3 and one Murali was examined as P.W.4. and Ex.P-1, Ex.P.5, Ex.P.18 and Ex.P.20 to Ex.P.23 were marked, the details of which are as follows:-

Ex.P-1 - the copy of FIR dated 13.09.2011
Ex.P-5 - the receipt for ambulance charges
Ex.P.18 - Postmortem report of the deceased dated 14.09.2011
Ex.P.20 - Death certificate of Govindaraj
Ex.P.21 - Legal heir certificate of Govindaraj
Ex.P.22 - Driving Licence of the deceased Govindaraj
Ex.P.23 - Salary certificate of the deceased Govindaraj

The driver of the appellant transport corporation bus was examined as R.W.1. No document was marked on behalf of the appellant transport corporation, respondent 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 Hero Honda 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 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.9,000/-x 12 x $\frac{3}{4}$ x 16 = Rs.12,96,000/-)	Rs.12,96,000/-
2	Loss of love and affection to the three children (Rs.25,000/- each)	Rs. 75,000/-
3	Loss of love and affection to the mother	Rs. 10,000/-
4	Loss of consortium to the wife	Rs. 1,00,000/-
5	Transport expenses	Rs. 5,000/-
6	Funeral expenses	Rs. 10,000/-
	Total	Rs.14,96,000/-

6. Insofar as the 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.9,000/- per month in respect of the 35 years old deceased, a lorry driver, which is very reasonable and is justified.

7. The Tribunal deducted $\frac{1}{4}$ 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 16 multiplier is higher and the actual multiplier should be 15. The Tribunal adopted 16 multiplier in terms of Second Schedule to Section 163A of the Motor Vehicles Act, considering the age of the deceased who was 35 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.

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 major. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

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Sub Assistant Registrar

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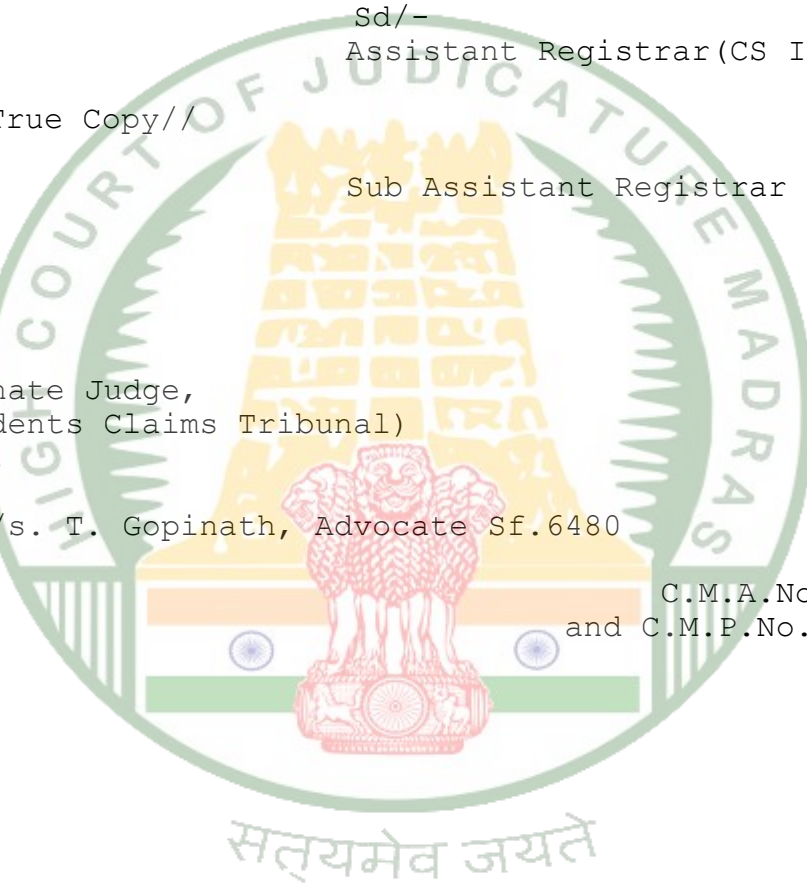
To

The Subordinate Judge,
(Motor Accidents Claims Tribunal)
Chidambaram.

+ 1 cc to M/s. T. Gopinath, Advocate Sf.6480

C.M.A.No.26 of 2016
and C.M.P.No.126 of 2016

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