

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.11.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.2642 of 2016 and
C.M.P. No.18905 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation Kumbakonam Limited,
Near Railway Station Road,
Kumbakonam Town and Taluk
Thanjavur District. ... Appellant/Respondent

Versus

1.Ganesan
2.Maheshwari
3.Sumathi
4.Kavitha ... Respondents/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 11.03.2016 made in M.C.O.P.No.183/2014 on the file of the Motor Accidents Claims Tribunal, Mannarkudi.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

Aggrieved over the impugned award dated 11.03.2016 made in M.C.O.P.No.183/2014 on the file of the Motor Accidents Claims Tribunal, Mannarkudi, awarding a sum of Rs.7,49,000/- as against the claim of Rs.10,00,000/- for the loss of life of the bread winner of the claimants family, the Transportation Corporation has brought this appeal.

2.According to the claimants, on 10.02.2014 at about 8.30 p.m., when the deceased was travelling as a passenger in the bus bearing Registration No.TN-49-N 1749 near Thirumakottai, fell down from the bus and sustained grievous multiple injuries. On 12.02.2014, she died at the Thanjavur Medical Hospital, due to the head injuries sustained by her. According to the claimants, the accident had happened due to the rash and negligent driving of the driver of the bus.

3.Subsequently, an F.I.R. was lodged on the file of the Thirumakottai Police Station as against the driver of the bus and the same was registered as Crime No.11 of 2014 for the offence under Sections 279 and 337, which have been altered into Section 304(A) of I.P.C. When the criminal case was pending against the driver of the bus, the Tribunal has taken up the M.C.O.P. Finally, the learned Tribunal while giving its finding, has held that the Transport Corporation is liable to pay the compensation, on the basis of F.I.R. marked as Ex.P1, which clearly shows that the driver of the bus belonging to the Transport Corporation, was negligent in causing the accident.

4.While coming to the quantum of compensation, it is seen that the claimants had pleaded before the Tribunal that the deceased was eking out his livelihood as Agriculturist and was earning a sum of Rs.200/- per day. Therefore, the learned Tribunal has fixed Rs.6,000/- as notional monthly income of the deceased. However, no addition has been made towards future prospects. While coming to the other heads namely 'loss of consortium' and 'loss of love and affection', it is seen that the learned Tribunal has fixed a meagre sum of Rs.20,000/- towards loss of consortium and Rs.1,00,000/- to all the claimants under the head 'loss of love and affection'. When there are four dependants namely husband and three children, it has fixed only a sum of Rs.1,00,000/- under the above head. Although a sum of Rs.25,000/- has been awarded towards funeral expenses and Rs.10,000/- towards transportation, the learned Tribunal has committed mistake in not awarding any addition towards future prospects and also in not awarding a sufficient reasonable compensation under the heads 'loss of consortium' and 'loss of love and affection'. Therefore, the challenge made to the quantum is wholly un-warranted and this Court is not inclined to interfere with the same. Accordingly, the appeal fails and the same is dismissed. No costs. Consequently, connected C.M.P. is also dismissed.

5.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 learned Tribunal for withdrawing of the said amount.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

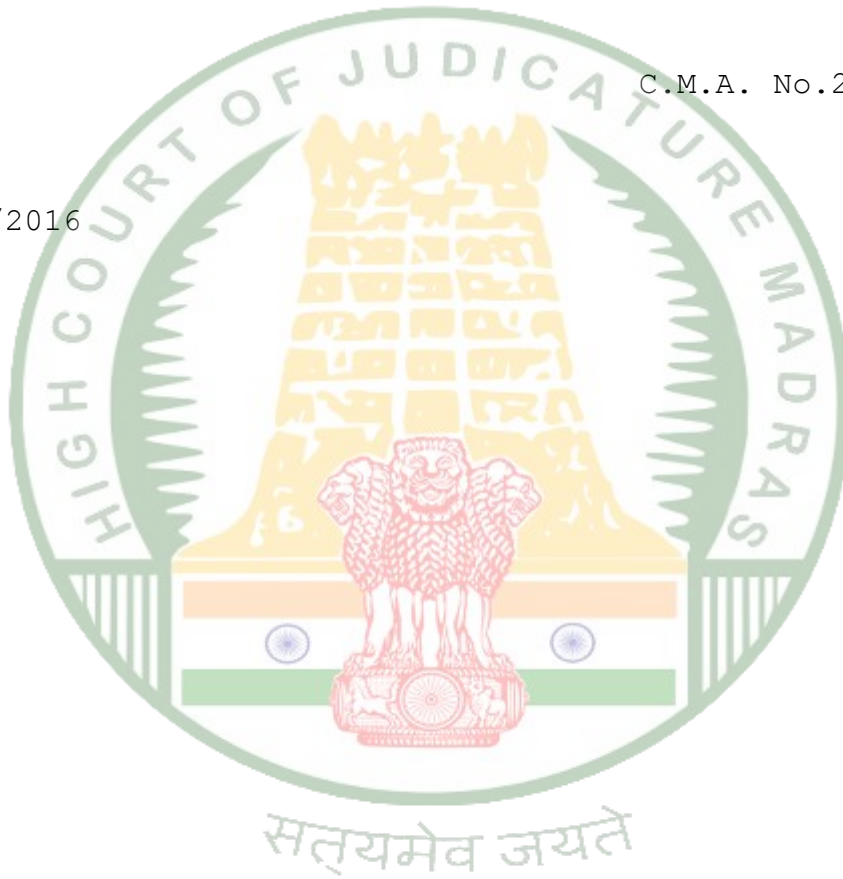
To

The Subordinate Judge,
The Motor Accidents Claims Tribunal,
Mannarkudi.

+lcc to Mr.D.Venkiatachalam, Advocate Sr.68834

C.M.A. No.2642 of 2016

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