

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2016

CORAM

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

C.M.A.No.458 of 2016
and CMP No.3504 of 2016

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

vs.

1. P.Mala
2. Minor P.Balaji
rep. by his mother and next
friend Mala
3. Satyamma ... Respondents/Petitioners

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 11.02.2015 passed in M.C.O.P.No.60 of 2014 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Tiruttani.

For Appellant : Mr.P.Paramasivadoss

JUDGMENT

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

The Transport Corporation is on appeal challenging the Judgment dated 11.02.2015 passed in M.C.O.P.No.60 of 2014 on the file of the Motor Accidents Claims Tribunal (Subordinate Court), Tiruttani.

2. It is a case of fatal accident. On 07.09.2012 at about 12.50 hours, when the deceased Panju, aged about 40 years was riding a Bolero Car bearing No.TN 18K 4959 to his extreme left side of the road near Seven Pipe Bridge, Elavur on Arambakkam to Chennai road, at that time, the driver of the Tamil Nadu State Transport Corporation Bus bearing Registration No.TN 21 N 1337, which was coming in the opposite direction, driven in a rash and negligent manner, dashed against the deceased vehicle and caused the accident, due to which, the deceased sustained injuries and was taken to Sundaram Medical Foundation and while taking treatment at the hospital, he succumbed to the injuries at about

7.50 p.m.. The claimants, who are wife, minor son and mother of the deceased have filed a claim for compensation for a sum of Rs.40,00,000/-.

3. In support of the claim, the wife of the deceased was examined as P.W.1 and one Murali was examined as P.W.2. and Exs.P-1 to Ex.P.10 were marked, the details of which are as follows:-

Ex.No.	Details
P1	Copy of the FIR
P2	Copy of the charge sheet
P3	Copy of treatment record
P4	Medical Bills
P5	Copy of postmortem certificate
P6	Copy of Legal Heirs certificate
P7	Copy of RC book
P8	Copy of RC book with name
P9	Copy of permit
P10	Copy of Driving license

On behalf of the Transport Corporation, one Gnanaprakasam, the driver of the bus was examined as R.W.1, however, 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 deceased was having valid driving licence to drive the two wheeler came to conclusion that the driver of the lorry was rash and negligence and was responsible for the accident and consequently liability was fixed on the Transport Corporation, being the owner of the accident vehicle to compensate the claimants. On this issue, learned counsel for the appellant has not placed any material 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	Dependency	Rs.28,80,000/-
2	Loss of love and affection	Rs. 1,25,000/-
3	Loss of consortium	Rs. 50,000/-
4	Funeral expenses	Rs. 10,000/-

Sl. No.	Head	Amount granted by the Tribunal
5	Medical Bills	Rs. 81,500/-
	Total	Rs.31,46,500/-

6. Insofar as the compensation is concerned, even though the monthly income of the deceased was mentioned as Rs.25,000/-, since the deceased was doing business, the Tribunal has notionally fixed the income of the deceased correctly at Rs.20,000/-. Further, based on the decision of the Hon'ble Supreme Court in case of Sarla Verma vs. Delhi Transport Corporation & Another reported in 2009(20 TNMAC 1 (SC)), by deducting 1/4th towards his personal expenses and by applying the multiplier 16 as per the II Schedule to the Motor Vehicles Act, the loss of income was worked out at Rs.28,80,000/-. Though a plea has been raised with regard to adoption of wrong multiplier, since no amount has been awarded under the head future prospects, this Court finds no good reason to reduce the multiplier and in our opinion, the amount of Rs.28,80,000/- awarded under the heading "dependency" is just and proper.

7. The Tribunal has awarded only a sum of Rs.50,000/- towards loss of consortium to the wife who is aged around 40 years, which, in our opinion, is very meagre. Hence, we are not inclined to reduce the same.

8. As far as the compensation awarded by the Tribunal under the heading "loss of love and affection" is concerned, though a plea has been taken that the compensation under this head is excessive, considering the fact that the minor child of the deceased was 8 years at the time of accident and mother, aged 55 years, has lost her son, we are of the opinion that a sum of Rs.1,25,000/- awarded under the head "loss of love and affection" is very reasonable.

9. There is no serious objection in respect of the other amounts granted or the interest granted at 7.5% per annum.

10. In the above circumstances, finding no merit, the Civil Miscellaneous Appeal is dismissed. The appellant Transport Corporation is directed to deposit the entire award amount, with interest and costs, if not already deposited, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, major claimants, are permitted to withdraw their respective shares as apportioned by the Tribunal. The share of the minor/2nd respondent shall continue to be in deposit till he attains majority and the 1st respondent is permitted to withdraw interest accruing on such deposit once in

three months. There shall be no order as to costs. Connected miscellaneous petition is also dismissed.

Sd/-
Asst.Registrar (CS IV)

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Sub Asst. Registrar

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To

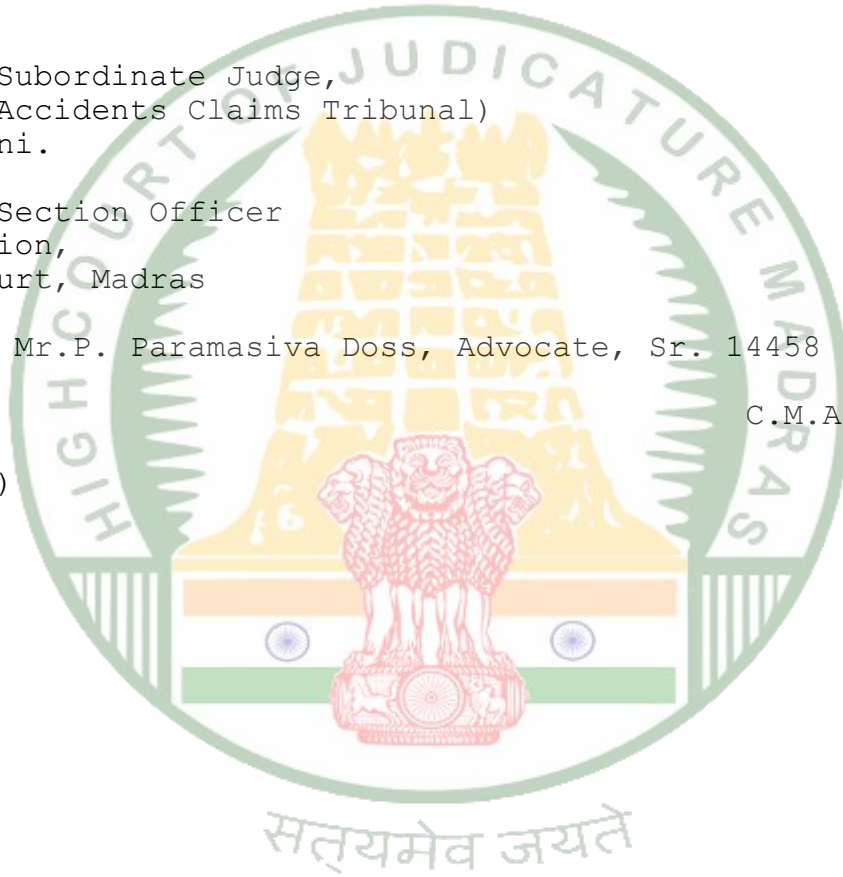
1. The Subordinate Judge,
(Motor Accidents Claims Tribunal)
Tiruttani.

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

1 cc to Mr.P. Paramasiva Doss, Advocate, Sr. 14458

C.M.A.No.458 of 2016

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