

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 17.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

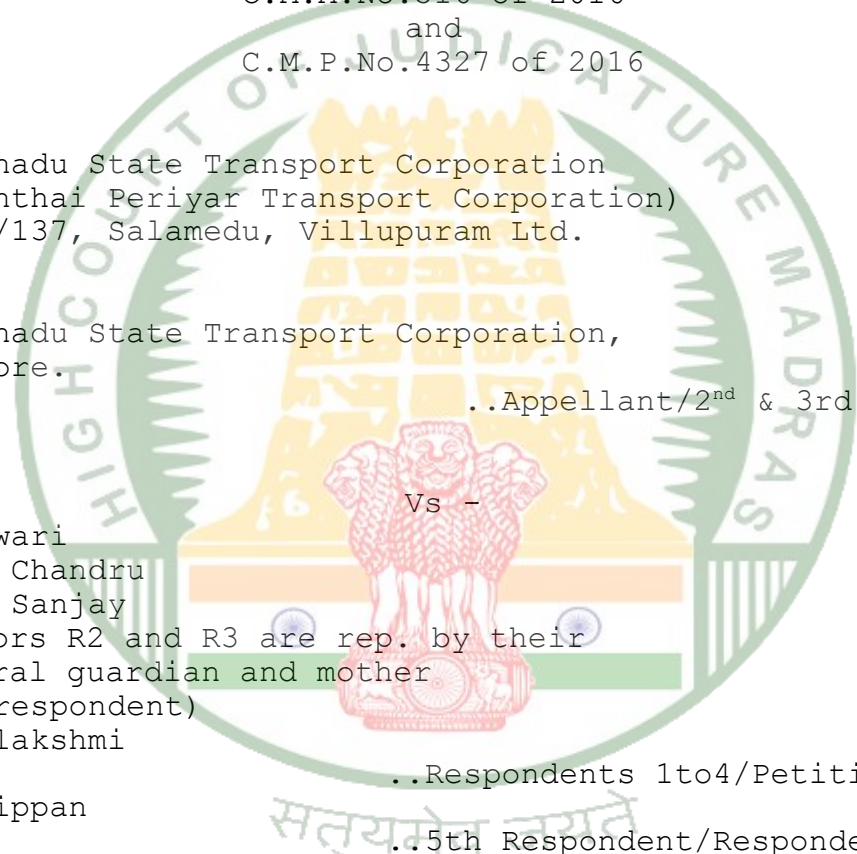
and

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.516 of 2016

and

C.M.P.No.4327 of 2016

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1. Tamilnadu State Transport Corporation
(Thanthai Periyar Transport Corporation)
No.3/137, Salamedu, Villupuram Ltd.
 2. Tamilnadu State Transport Corporation,
Vellore.
..Appellant/2nd & 3rd Respondent
- Vs -
1. Maheswari
 2. Minor Chandru
 3. Minor Sanjay
(Minors R2 and R3 are rep. by their
natural guardian and mother
1st respondent)
 4. Dhanalakshmi
..Respondents 1to4/Petitioners
 5. Pachaippan
..5th Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and decree dated 14.08.2015 in M.C.O.P.No.59 of 2006, passed by the Motor Accident Claims Tribunal, Arani.

For Appellants : Mr.P.Paramasivadoss

J U D G M E N T

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

Transport Corporation is on appeal challenging the award dated 14.08.2015 in M.C.O.P.No.59 of 2006, passed by the Motor Accident Claims Tribunal, Arani.

2. It is a case of fatal accident. On 22.2.2006, when the deceased Saravanan was riding his auto bearing Registration No.TN-10-B-6796 from Vandavasi to Melmaruvathur, the bus belonging to the appellants/Transport Corporation bearing Registration No.TN-32-N-0801 came in a rash and negligent manner and dashed against the auto driven by the deceased Saravanan. As a result, the deceased died on the spot. A criminal Case has been filed against the driver of the appellants/Transport Corporation bus in Cr.No.55 of 2006 on the file of Kodungalur Police Station for the offences under Sections 279, 338 and 304A of IPC. Hence, the claimants, who are wife, aged 25 years, two minor sons, aged 9 and 4 years respectively and mother, aged 50 years of the deceased have claimed compensation of Rs.6,00,000/-. According to the claimants, on the date of accident, he was an auto driver and was earning a sum of Rs.10,000/- per month.

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

Ex.P-1	-	First Information Report
Ex.P-2	-	MVI Report
Ex.P-3	-	Post mortem Report

4. On the side of the appellants/Transport Corporation, one S.Pachaiyappan was examined as R.W.1. no documents were marked.

5. The Tribunal, based on the oral evidence of the witnesses to the occurrence, which has been adduced to prove that the bus was driven in a rash and negligent manner and also taking into account the documentary evidence and further there being no satisfactory evidence adduced on behalf of the appellants/Transport Corporation to refute the eye witness testimony as to the rash and negligent driving of the bus, came to the conclusion that the accident was caused due to the rash and negligent driving by the driver of the bus and, therefore,

the liability was fixed on the driver of the bus and consequently the appellants-Transport Corporation was directed to compensate the claimants. Accordingly, the Tribunal awarded compensation under the following heads :-

Loss of income	- Rs. 11,34,000/-
Funeral Expenses	- Rs. 15,000/-
Transportation Expenses	- Rs. 2,000/-
Damage to clothes	- Rs. 1,000/-
Loss of consortium	- Rs. 25,000/-
Loss of love and affection	- Rs. 60,000/-
Total	- Rs. 12,37,000/-

6. In all, the Tribunal awarded a compensation of Rs.12,37,000/- with interest at the rate of 7.5% from the date of claim petition till date of payment/deposit. Aggrieved by the said award, the Transport Corporation is before this Court by filing the above appeal.

7. Learned counsel appearing for the appellants/Transport Corporation has submitted that the Tribunal had adopted higher multiplier and the same may be reduced.

8. This Court has given its careful consideration to the contention advanced by the learned counsel appearing for the appellants and also perused the materials available on record. Taking into consideration the entire gamut of facts and also keeping in mind the fact that the claimants have lost the sole breadwinner of the family and the Tribunal has awarded a meagre sum towards loss of consortium and love and affection, we find that the compensation granted by the Tribunal needs no modification. Even if the multiplier is reduced as per the contention of the learned counsel appearing for the appellants, the said amount has to be adjusted towards other heads.

9. Accordingly, finding no merit, this appeal stands dismissed. No costs. Learned counsel appearing for the appellants seeks time to deposit the award amount. The appellants are granted eight weeks time to deposit the entire award amount with interest and costs, less the amount if any paid. On such deposit being made, the major claimants are

permitted to withdraw their respective share as apportioned by the Tribunal. The share in respect of the minors shall be invested in any one of the Nationalised Bank initially for a period of three years and to be renewable thereafter periodically till the minors attain majority. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

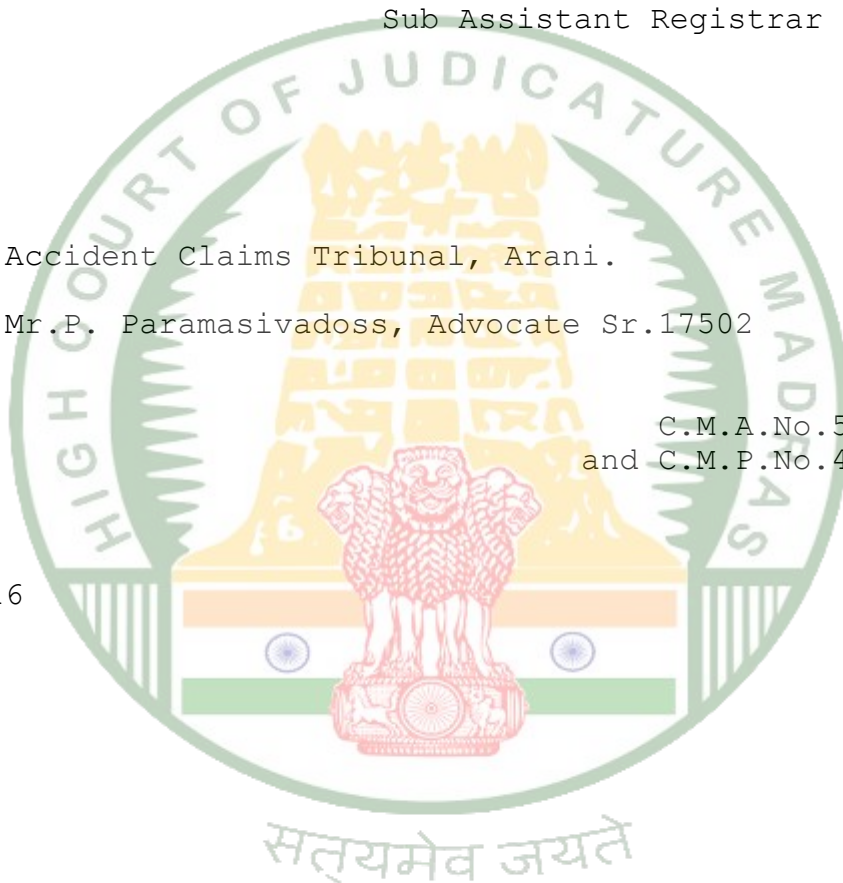
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To
The Motor Accident Claims Tribunal, Arani.

+ 1 cc to Mr.P. Paramasivadoss, Advocate Sr.17502

C.M.A.No.516 of 2016
and C.M.P.No.4327 of 2016

SV(CO)
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