

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

C.M.A.No.801 of 2016
and C.M.P.No.6455 of 2016

The Managing Director
Tamil Nadu State Transport
Villupuram Division-III
Kancheepuram

...Appellant/Respondent

vs.

1.V.Govindammal
2.Satheesh
3.Rajan
4.Dinesh
5.Madhan

..Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 26.11.2015 made in M.C.O.P.No.13 of 2012 on the file of Motor Accident Claims Tribunal, (The Chief Judicial Magistrate,) Chengalpattu.

For Appellant/Transport Corporation : Mr.K.J.Sivakumar

JUDGMENT

(Judgment of the Court was delivered by HULUVADI G. RAMESH, J.)

With the consent of the learned counsel for the appellant, the matter is taken up for final disposal at the stage of admission itself.

2. We have heard the learned counsel representing the appellant/Transport Corporation. Considering the nature of order to be passed herein, notice to the respondents is dispensed with.

3. It is a case of fatal accident. On 25.12.2008 at about 6.00 a.m., while the deceased/Vijayan was travelling in

the Auto bearing Reg.No.TN-32-Q-5229 from P.V.Kalathur to Chengalpattu, the bus belonging to the appellant/Transport Corporation, bearing Reg.No.TN-21-N-0965, coming from Chengalpattu towards Tindivanam, driven by its driver in a rash and negligent manner, dashed against the Auto, as a result of which the deceased sustained grievous injuries and inspite of treatment, succumbed to the injuries and died. A case was registered in connection with the accident.

4. The claimants, who are wife and sons of the deceased have filed a claim for compensation in a sum of Rs.25,00,000/-. According to the claimants, the deceased was a Railway Employee and was earning Rs.22,437/= per month.

5. In support of the claim, the wife of the deceased examined herself as P.W.1, one Elumalai, who is an eye-witness to the accident, was examined as P.W.2 and one Jeyakumar, who was working as a Clerk in the Southern Railway was examined as P.W.3 and Exhibits P-1 to P-6 were marked. On behalf of the Transport Corporation, neither any witness was examined nor any document was marked before the Tribunal.

6. The Tribunal, after taking note of the oral evidence of P.W.2 and Exhibit P.1, held that due to the rash and negligent driving by the driver of the bus, the accident had occurred and consequently, fixed the liability on the Transport Corporation to compensate the claimants.

7. Based on the oral and documentary evidence, the Tribunal fixed the income of the deceased at Rs.15,573/- per month and while deducting 1/4 towards his personal expenses, by adopting a multiplier of 11, calculated the loss of pecuniary benefits to the dependents at Rs.15,41,760/-. [Rs.11,680/- x 11 x 12 = Rs.15,41,760/-]

Accordingly, the Tribunal passed the award granting compensation as below 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 by adopting multiplier 11	Rs.15,41,760/-
2	Loss of love and affection	Rs. 60,000/-

Sl. No.	Head	Amount granted by the Tribunal
3	Loss of consortium	Rs. 30,000/-
4	Transport expenses	Rs. 5,000/-
6	Funeral expenses	Rs. 20,000/-
	Total	Rs. 16,56,760/-

8. Insofar as the issue regarding negligence is concerned, the learned counsel for the appellant/Transport Corporation has no serious objection and hence, the same is confirmed. Learned counsel appearing for the appellant/corporation is aggrieved only with regard to the compensation granted under the head "Loss of pecuniary benefits" and submits that the compensation granted is on the higher side and therefore, prays that this court may consider reducing the same.

9. Though such an argument is advanced by the learned counsel for the appellant, this Court is of the considered opinion that the same deserves to be rejected. This Court is of the view that the amount awarded under the conventional heads of compensation appears to be justified in all aspects. Further, no evidence has been put forth before the Tribunal to come to the conclusion that the compensation awarded under the head of "Loss of pecuniary benefits" is on the higher side.

10. For the reasons stated above, the Civil Miscellaneous Appeal is dismissed. The award of the Tribunal is confirmed. However, the above order will not be a bar for the claimants to seek for enhancement of compensation by filing proper petition before this court, if so advised. Accordingly, the following order is passed :

- (i) The award of the Tribunal is confirmed;
- (ii) The award amount will carry interest at the rate of 7.5% per annum from the date of petition in M.C.O.P.No.13/2012 till the date of deposit.
- (iii) The appellant is directed to deposit the award amount along with accrued interest and cost to the credit of M.C.O.P.No.13/12 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate, Chengalpattu, within a period of 8 weeks from the date of receipt of a copy of this order.

(iv) On such deposit, the claimants are permitted to withdraw the same as per the apportionment made by the Tribunal.

(iv) There will be no order as to costs in this appeal.

(v) Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-V)

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Sub Assistant Registrar

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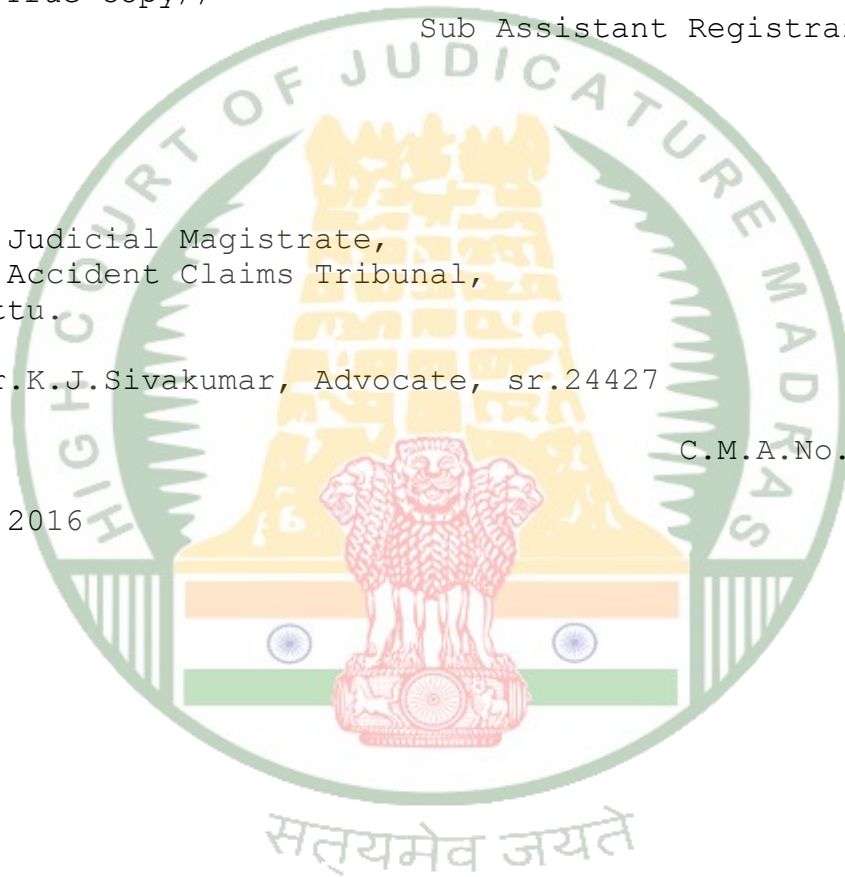
The Chief Judicial Magistrate,
The Motor Accident Claims Tribunal,
Chengalpattu.

1 CC to Mr.K.J.Sivakumar, Advocate, sr.24427

C.M.A.No.801 of 2016

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