

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2016

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THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No. 867 of 2016

&

C.M.P. No. 7022 of 2016

The Managing Director
Tamil Nadu State Transport Corporation
Kumbakonam. ...Appellant/Respondent

..vs..

1. Lalitha
2. Veerammal ...Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal, referred under Section 173 of Motor Vehicles Act 1988 as against the Judgment and decree dated 14.11.2014 made in M.C.O.P. No.58 of 2010 on the file of Motor Accidents Claims Tribunal (II Additional District Court), Chidambaram.

For Appellant :: Mr.D. Venkatachalam

For Respondents :: Mr.T.Gobinath (R1)
Ms.Ramya V.Rao for R2

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the Judgment and decree dated 14.11.2014 made in M.C.O.P. No.58 of 2010 on the file of Motor Accidents Claims Tribunal (II Additional Subordinate Court), Chidambaram.

2. A mason aged 34 years, on 14.02.2007, when he was riding his Hero Honda bearing Registration No.TN 51-S-3296 along with a pillioner, in the left side of the Sirkali Thirumullaivasal road, at Varushapath Village near Vijayalakshmi Oil Mill at about 5.00 p.m., the appellant bus bearing Registration No.TN 49-N-1177, which was driven in a rash and negligent manner, dashed on him and caused accident. The wife and mother of the deceased approached the Tribunal claiming compensation to the tune of Rs.25 lakhs and the Tribunal did not agree with the contentions of the claimants with regard to the monthly income of the deceased at Rs.20,000/- and fixed the

income of the deceased at Rs.5000/- and adding 50% for future prospects, the monthly income of the deceased was calculated at Rs.7500/- and the annual income was arrived at Rs.90,000/- and after deducting 1/3rd towards personal expenses and by adopting 16 multiplier, loss of dependency was calculated at Rs.9,60,000/- and by granting a sum of Rs.55,000/-under various other heads, the Tribunal granted compensation to the tune of Rs.10,15,000/- to the claimants, however, restricted an amount of Rs.7,50,000/- to the wife as in the meantime, there was difference of opinion between the mother and the wife of the deceased and the mother of the deceased approached another Court claiming compensation insofar as her share is concerned.

3. I have heard the learned counsel appearing for the Transport Corporation and learned counsels appearing for the respondents.

4. It is represented by the learned counsel appearing for the mother of the deceased/2nd respondent that the claim petition filed before the Chief Judicial Magistrate, Cuddalore was dismissed for default and though a restoration application was filed, the 2nd respondent will not claim any compensation based on the said application if her share amount is taken into account and apportionment is made on the total compensation of Rs.10,15,000/-.

5. Mr.D.Venkatachalam, learned counsel appearing for the Transport Corporation fairly submitted that even though the quantum of compensation granted has been questioned, in order to give a quietus to the matter, the pendency of the matter before the Chief Judicial Magistrate, Cuddalore may be specifically mentioned and there should not be any adjudication in the said matter, in which case, the compensation may be apportioned by this Court. The learned counsels appearing for the wife/1st respondent and the mother/respondent have no objection for the same.

6. In view of the said submissions made by the learned counsel on either side, the following order is passed:-

(i) Out of the total compensation granted by the Tribunal viz., Rs.10,15,000/-, the wife of the deceased is entitled to a sum of Rs.7,50,000/- together with interest at 7.5% p.a. and the balance amount of Rs.2,65,000/-shall be payable to the mother of the deceased together with interest at 7.5% p.a.

(ii) The Appellant Transport Corporation is directed to deposit the entire award amount together with proportionate costs and interest @ 7.5% per annum from the date of claim petition if not already deposited, to the credit of M.C.O.P.No.58 of 2010 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Chidambaram, within a

period of eight weeks from the date of receipt of a copy of this order and on such deposit being made, the respondents herein/claimants are entitled to make necessary applications to withdraw the same.

(iii) It is made clear that before withdrawing the amount that is going to be deposited by the Transport Corporation, the 2nd claimant viz., the mother of the deceased shall enclose a copy of this order along with a requisition for closing the restoration application, which was filed to restore the claim petition filed by the mother of the deceased, before the Chief Judicial Magistrate, Cuddalore

This Civil Miscellaneous Appeal is disposed of on the above terms. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The II Additional District Court,
Motor Accidents Claims Tribunal, Chidambaram,

2. The Chief Judicial Magistrate,
Cuddalore.

+1cc to Mr.D. Venkatachalam, Advocate, S.R.No.

+1cc to Mr.A.N. Viswanatha Rao, Advocate, S.R.No.24301

NM(CO)

EU(06/06/2016)

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