

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No.889 of 2016 &
C.M.P. No.7128 of 2016

The Director
Tamil Nadu Fire Service Department
Egmore, Chennai 600 008 ..Appellant/Respondent

Vs.

1. Balraj
2. Thanga Mariammal ..Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal as against the Judgment and decree dated 31.07.2012 made in M.C.O.P. No. 1176 of 2008 on the file of Motor Accidents Claims Tribunal (Principal District Judge), Thiruvallur.

For Appellant :: Ms.Jayashree,
Government Advocate

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the Fire Service Department as against the judgment and decree dated 31.07.2012 made in M.C.O.P. No. 1176 of 2008 on the file of Motor Accidents Claims Tribunal (Principal District Judge), Thiruvallur.

2. Heard the learned counsel for the appellant and perused the materials on record.

3. The contention of the appellant is that due to the rash and negligent driving of the rider, the accident took place on 28.05.2008. A perusal of the award would make it clear that it was a fatal accident as the Van ran over the head of the deceased and he died on the spot leaving behind the parents of the deceased/legal representatives, who are the claimants, who preferred claim petition before the Tribunal claiming compensation to the tune of Rs.7,00,000/- and the Tribunal, based on the oral and documentary evidence, passed an award for a sum of Rs.4,37,000/- with 7.5% p.a. under various heads which are as follows:-

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of dependency	Rs.4,32,000/-
2	Transport and Funeral expenses	Rs. 5,000/-
	Total	Rs.4,37,000/-

4. The only grievance of the appellant is that when there was no proof for the income as well as for the age of the deceased, the Tribunal ought not to have taken the monthly income as Rs.4,500/-. The Tribunal, after considering the evidence of the witness more particularly the eye witness, P.W.2, who has stated that the ambulance belonging to the Tamil Nadu Fire Service came in a rash and negligent manner, dashed the motorcyclist and the van ran over the motorcyclist and also after considering the evidence of the witness who stated that the deceased was employed as an Electrician cum Plumber, did not accept the contention of the claimants that the deceased was earning a sum of Rs.10,000/- per month and fixed the salary at Rs.4,500/- p.m. and awarded the compensation under two heads, totalling a sum of Rs.4,37,000/- together with interest at 7.5% p.a., however, the interest was deprived for the period between 20.08.2010 to 05.01.2012.

5. The Honourable Apex Court, in the judgment rendered in Syed Sadiq V. Divisional Manager, United India Insurance Co. Ltd reported in 2014 (1) TN MAC 459 (SC), in respect of a vegetable vendor, who sustained injuries in an accident which occurred in 2008, determined Rs.6500/- as the monthly income. Taking note of the Syed's case referred to above, I am of the view that the income determined by the Tribunal is far less. Further, the Tribunal has adopted the multiplier taking into account the age of the second claimant and not that of the deceased in awarding compensation. If at all any one is aggrieved, it may only be the claimants and not the appellant herein. Hence this Court finds no reason to interfere with the compensation awarded by the Tribunal.

6. Hence, finding no merit, this Civil Miscellaneous Appeal is dismissed by confirming the award of the Tribunal. The rate of interest at 7.5% p.a. granted by the Tribunal is confirmed. No costs. Connected miscellaneous petition is closed.

7. The Appellant Fire Service Department is directed to deposit the entire award amount together with proportionate costs and interest @ 7.5% per annum from the date of claim petition, before the Tribunal, within a period of six 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 application to withdraw the same as apportioned by the Tribunal.

rg

s/d-

Assistant Registrar(J)

True Copy

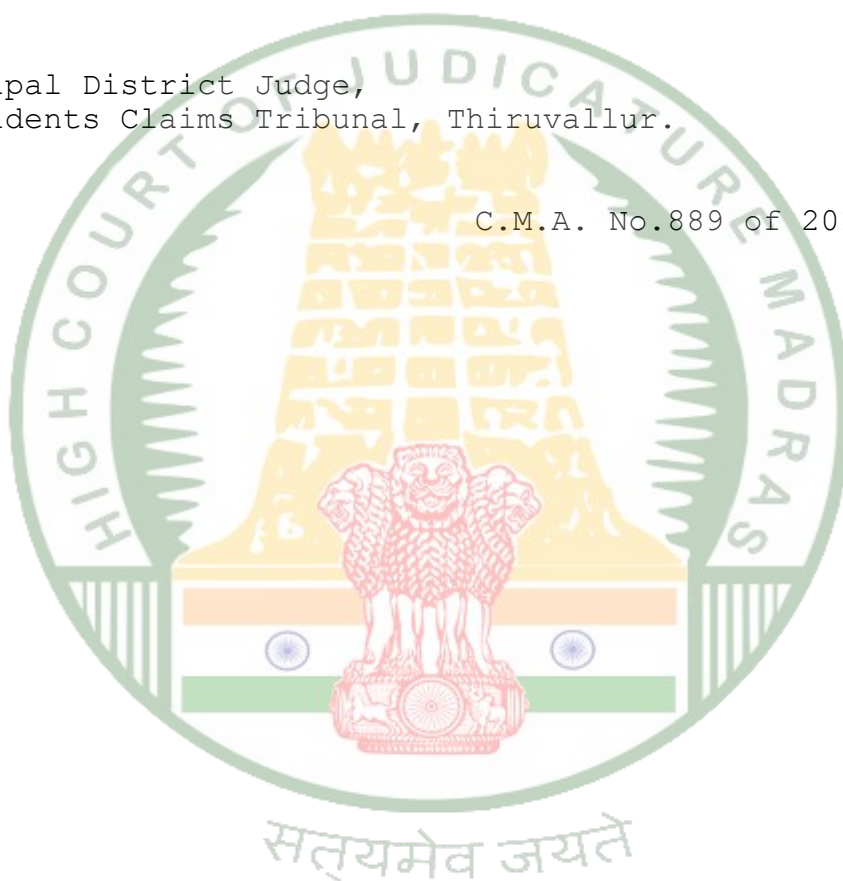
Sub-Assistant Registrar

To

The Principal District Judge,
Motor Accidents Claims Tribunal, Thiruvallur.

pur(co)
prk9/6

C.M.A. No.889 of 2016



WEB COPY