

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2016

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THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No.956 of 2016 &

C.M.P. No. 7346 of 2016

The Managing Director
Tamil Nadu State Transport Corporation
(Villupuram) Limited,
No.3/137, Salamedu,
Vazhuthareddy.
Villupuram-605 602. ..Appellant/Respondent

Vs.

1. K.Santha
2. A.Kamaraj ..Respondent/Petitioners

Prayer: Civil Miscellaneous Appeal as against the order and decreetal order dated 10.09.2013 made in M.C.O.P. No.628 of 2009 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate, Cuddalore.

For Appellant :: Mr.K.J.Sivakumar

J U D G M E N T

The Transport Corporation has come forward by filing this Civil Miscellaneous Appeal challenging the order and decreetal order dated 10.09.2013 made in M.C.O.P. No.628 of 2009 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate, Cuddalore.

2. It is a case of fatal accident. On 24.10.2008 at about 8.30 hours, when the deceased Pazhanivel was driving his TATA Ace bearing Reg.No.TN-31-AA-6149 from Thambipettai T.Palayam to Cuddalore, the appellant's bus bearing Reg.No.TN 32-N-2631 came from opposite direction driven by its driver in a rash and negligent manner and dashed against the said TATA Ace. Due to which, the said Pazhanivel had multiple grievous injuries on the head and all over the body. Immediately, he was taken to Government Head Quarters Hospital at Cuddalore and during treatment, he succumbed to death. The claimants who are the

mother and father of the deceased approached the Tribunal, claiming compensation to the tune of Rs.10,00,000/-. The Tribunal, based on the oral and documentary evidence, awarded compensation to the tune of Rs.4,57,000/-. Aggrieved over the same, the present Civil Miscellaneous Appeal is filed by the Transport Corporation.

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

4. A cursory glance of the award of the Tribunal would make it clear that the Tribunal taking note of the fact that the deceased, after the accident was taken to the Government Head Quarters Hospital at Cuddalore and he died on the same day at the age of 20 years, had arrived at the total compensation to be awarded to the claimants, who are stated to be the parents of the deceased. The Tribunal has rejecting the claimants' plea of the monthly income of the deceased at Rs.10,000/- and fixing Rs.4,000/- as monthly income and adopting multiplier '18' and thereafter, the deceased being bachelor, deducting 50% towards personal expenses and awarded the compensation at Rs.4,57,000/- under various heads. The only point raised by the learned counsel for the appellant is that the monthly income has been erroneously taken at Rs.4,000/-, even in the absence of proof of income, though the accident had taken place in 2008.

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, since the accident in this case had occurred in the year 2008, in the absence of any proof, I am of the view that the Tribunal has not committed any error in taking the monthly income of the deceased as Rs.4,000/- and the same is very meagre and also taking note of the fact that the Tribunal, more particularly when there is no fault on the part of the deceased, the driver of the bus drove the vehicle in a rash and negligent manner and caused the accident. The Tribunal, after deducting 50% towards personal expenses has rightly granted compensation to the claimants. Further, a glance of the award would reveal that the Tribunal is right in granting the compensation under other heads and the same cannot be said to be excessive. Hence, I find no reason to interfere with the award of the Tribunal.

6. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. The rate of interest granted by the

Tribunal is also confirmed. The appellant Transport Corporation Company is directed to deposit the entire award amount together with interest to the credit of MCOP No.628 of 2009 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Cuddalore, if not already deposited, within a period of six weeks from the date of receipt of a copy of this order and on such deposit being made, the claimants are entitled to withdraw their respective shares as apportioned by the Tribunal on filing necessary applications before the Tribunal.

7.The Trial Court is expected to follow the procedures contemplated in the order dated 11.03.2016 passed by a Division Bench of this Court in C.M.A.No.428 of 2016 scrupulously. There will be no order as to costs in this appeal. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Chief Judicial Magistrate,
The Motor Accidents Claims Tribunal,
Cuddalore.

1 cc to Mr.Sivakumar, Advocate, sr.25698

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