

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.969 of 2016
and C.M.P.No.7419 of 2016

The Managing Director
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Kanchipuram Region,
Kancheepuram 631 501.

.... Appellant/Respondent

vs.

1. Anjalai
2. Periya Arani
3. Chinna Arani (Minor)
4. Shindhu (Minor)
(Minors rep. by mother
and next friend first respondent
Anjali)

..Respondents/Petitioners

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 07.11.2013 passed in M.C.O.P.No.1466 of 2008 on the file of the Motor Accidents Claims Tribunal, Chief Small Causes, Chennai.

For Appellant :Mr.K.J.Shivakumar

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the Judgment and decree dated 07.11.2013 passed in M.C.O.P.No.1466 of 2008, on the file of the Motor Accidents Claims Tribunal, Chief Small Causes, Chennai.

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

3. Wife and children of the deceased are the claimants. They filed a claim petition before the Tribunal stating that they are the legal representatives of the deceased fisherman, aged 48 years, who met with a fatal accident on 17.06.2006, they approached the Tribunal, claiming compensation to the tune of Rs.10,00,000/- on the basis of the monthly income of the deceased at Rs.10,000/- per month. The Tribunal, taking note of the factual aspect, fixed the monthly income at Rs.4,500/- per month and by adopting multiplier method and after deducting 1/4th towards personal expenses, awarded compensation to the tune of Rs.6,84,450/- towards loss of income, besides awarding a sum of Rs.25,000/- towards loss of love and affection and a sum of Rs.10,000/- towards funeral expenses and a sum of Rs.25,000/- towards loss of consortium and a sum of Rs.5,000/- towards transportation and a sum of Rs.25,000/- towards pain and suffering and a sum of Rs.1,295/- towards medical bills thus, totalling a sum of Rs.7,85,745/- together with interest at 7.5% p.a/-. Aggrieved over the same, the present Civil Miscellaneous Appeal is filed by the Transport Corporation.

4. According to the learned counsel for the appellant/Corporation, the driver of the Corporation Bus, who is said to have caused the accident has been examined as R.W.1 and the Tribunal has failed to take note of his evidence. It is also contended by the learned counsel for the appellant that there is a delay in registering the complaint and the Tribunal erred by fixing the monthly income at Rs.4,500/- for a fisherman, without any valid proof and the same is on the higher side.

5. The accident has not been disputed and it is also the fact that on account of the accident caused by the appellant Corporation bus, the deceased sustained grievous injuries and died on 20.06.2007. That apart, as far as the contention raised by the counsel for the appellant that in the absence of proof of income, the Tribunal has taken the monthly income at Rs.4,500/- will not hold good as in the case of "Syed Sadiq and others versus Divisional Manager, United India Insurance Co.Ltd." reported in 2014 ACJ 627 wherein the income of a vegetable vendor had been fixed at Rs.6,500/-. Hence, I am of the view that the compensation awarded by the Tribunal by fixing the monthly income at Rs.4,500/- cannot be said to be excessive. In view of the above, 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.1466 of

2008 on the file of the Motor Accident Claims Tribunal (Chief Small Causes), Chennai, if not already deposited, within a period of eight 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. There will be no order as to costs in this appeal. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

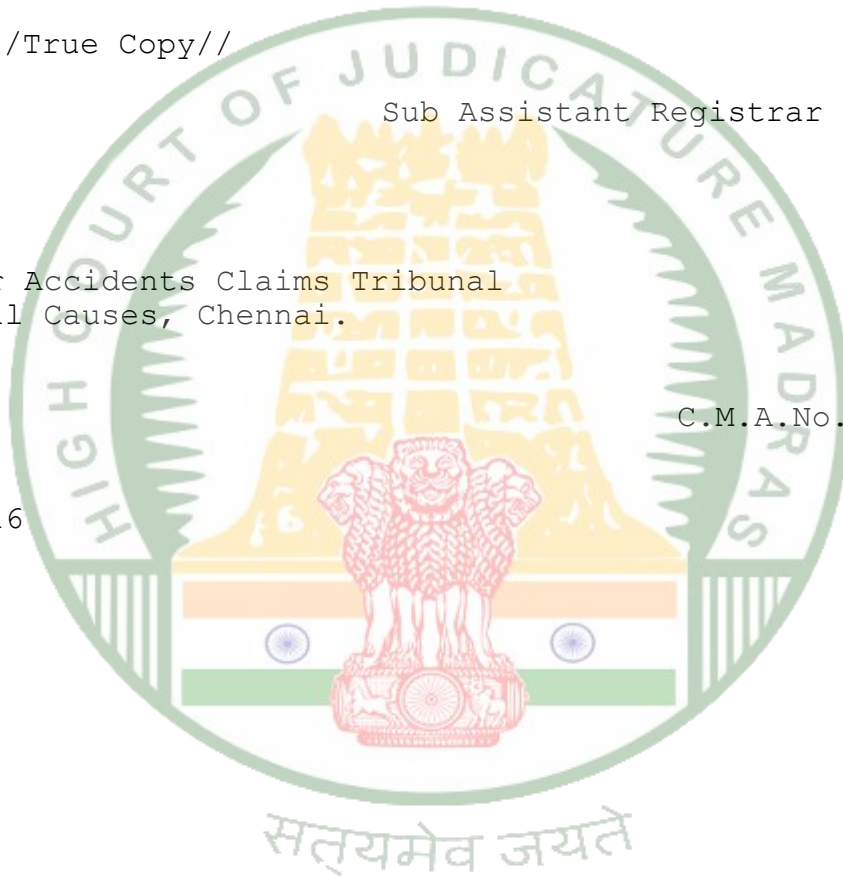
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To

The Motor Accidents Claims Tribunal
Chief Small Causes, Chennai.

C.M.A.No.969 of 2016

GJ(CO)
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