

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.975 of 2016
and
C.M.P.No.7423 of 2016

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

vs.

1. Meenakshi
2. Minor Mohan
3. Minor Sathish Kumar

R2 and 3 minors are represented by
their mother and natural guardian
1st respondent ... Respondents/Petitioners

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the order and decreetal order dated 13.02.2015 passed in M.C.O.P.No.307 of 2014 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur.

For Appellant : Mr.V.S.Vijay Veliappan

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the order and decreetal order dated 13.02.2015 passed in M.C.O.P.No.307 of 2014 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur.

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

3. The claimants, who are the mother and minor brothers of the deceased Prakash, aged 18 years, claiming to be an ITI Student (Electrician), who met with a fatal accident on 09.05.2014, approached the Tribunal, claiming compensation to the tune of Rs.15,00,000/-. The Tribunal, taking note of the factual aspect, fixed the monthly income at Rs.9,000/- per month and by adopting multiplier method and after deducting 1/3rd towards personal expenses, awarded the compensation to the tune of Rs.12,96,000/- towards loss of income, besides awarding a sum of Rs.30,000/- towards loss of love and affection and a sum of

Rs.5,000/- towards transport expenses and a sum of Rs.5,000/- towards funeral expenses, totalling a sum of Rs.13,41,000/- together with interest at 7.5% p.a. Aggrieved over the same, the present Civil Miscellaneous Appeal is filed by the Transport Corporation.

4. The contention of the learned counsel for the appellant Transport Corporation is that there was no documentary evidence with regard to salary of the deceased and that the salary fixed by the Tribunal was also on the higher side. Apart from that, the Tribunal has wrongly deducted 1/3rd towards personal expenses instead of 50%. The deceased being a bachelor, 50% should be deducted towards his personal expenses and the Tribunal ought not to have deducted 1/3rd towards personal expenses. It is further contended that the rider of the vehicle did not possess a valid license to drive the vehicle and the deceased was a pillion rider and no proof has been produced in respect of the age. Further a contention was made that the accident took place only due to the rash and negligent driving of the rider of the motorcycle. However, a cursory glance of the award of the Tribunal would make it clear that the deceased sustained injuries in accident caused by the Corporation bus and died on 09.05.2014. That apart, in the absence of proof of income, the Tribunal has taken the monthly income at Rs.9,000/- based on "Syed Sadiq and others versus Divisional Manager, United India Insurance Co.Ltd." reported in 2014 ACJ 627 and also applied 1/3rd deduction towards living expenses, even though based on Sarla Verma's case, deduction has got to be made towards personal and living expenses at 50% of the income of the deceased, as he was a bachelor. Though monthly income fixed by the Tribunal appears to be on the higher side, the Tribunal has not granted any amount towards his future prospects and being an ITI student, the compensation granted to his mother towards loss of love and affection is very meagre. Hence, taking note of the totality of the circumstances, I find no reason to interfere with the award of the Tribunal.

5. 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.307 of 2014 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Perambalur, 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 1st respondent/claimant is entitled to withdraw her respective share and insofar as minors' shares are concerned, the Tribunal is directed to deposit their shares as apportioned by the Tribunal, in any one of the nationalized banks in a Fixed Deposit Scheme initially for a period of three years renewable thereafter and the first respondent/claimant is also permitted to withdraw the accrued interest thereon till they attain

majority on filing necessary applications before the Tribunal.

6. 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(CCC)

//True Copy//

Sub Assistant Registrar

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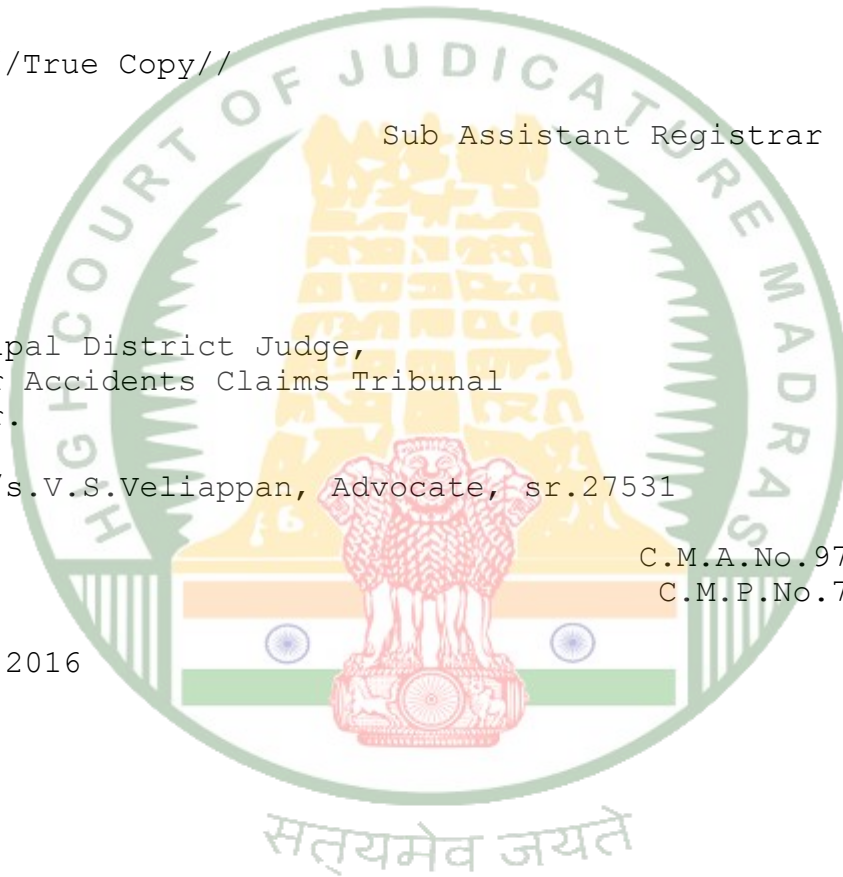
To

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

1 cc to M/s.V.S.Veliappan, Advocate, sr.27531

C.M.A.No.975 of 2016 &
C.M.P.No.7423 of 2016

mp co
kra 31.08.2016



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