

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:- 22.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.99 of 2016

and

CMP No.987 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram) Limited,
Villupuram 605 602.

...Appellant

Versus

1.Powlin
2.Minor Anjali Mariya
Rep. by her mother and guardian first petitioner,
amended as per order on memo dated 01.08.2015.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 03.06.2014 made in M.C.O.P.No.115 of 2012 on the file of the Motor Accident Claim Tribunal, Principal District Judge, Tiruvallur.

For Appellant :: Mr.J.Sivakumar

J U D G M E N T

This civil miscellaneous appeal has been taken up for disposal at the stage of admission itself.

2.The Managing Director of the Transport Corporation Limited, Villupuram has brought this appeal challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Principal District Judge, Thiruvallur in MCOP No.115 of 2012 awarding a sum of Rs.5,72,500/- as against the claim of Rs.15,00,000/- for the loss of life of the deceased viz., Prasad aged about 41 years. On 27.11.2008 at about 3.20 p.m., while the deceased was traveling along with his friend as a pillion rider in a bike bearing Reg.No.TN-22-AY-9294 at GST Road, near Tambaram, a bus belonging to the appellant Transport Corporation

bearing Registration No.TN-32-N-2682 driven by its driver in a rash and negligent manner on the same direction, dashed behind the bike and thereby causing fatal injuries to the pillion rider/deceased. The claimants are the legal heirs of the deceased.

3.Learned counsel for the Transport Corporation would submit that at the time of accident, the deceased Prasad was aged about 41 years, therefore, as per the ratio laid down in Sarla verma vs. Delhi Transport Corporation reported in 2009(2) TNMAC 1 (SC), the learned Tribunal ought to fix 14 as multiplier, instead, it has adopted the multiplier of '15'. On this score, he sought for quashing the impugned award of the learned Tribunal.

4.This court is not able to find any merits on the above said submission made by the learned counsel for the appellant, for the reason, that the deceased was the sole breadwinner of his family and he died in the above said accident, leaving behind his wife and a minor daughter, therefore, the learned Tribunal, on perusing material placed before it, fixed the negligence on the part of the driver of the offending vehicle bearing Registration No.TN-32-N-2682. Though it was the case of the claimants that the deceased was earning Rs.15,000/- per month at the time of the accident, the learned Tribunal refused to accept the same on the ground that there was no evidence on record to substantiate the said fact. Hence, after fixing Rs.4500 as notional monthly income of the deceased and deducting 1/3 towards personal and living expenses of the deceased, the learned Tribunal has adopted 15 as multiplier. However, the learned Tribunal has committed serious error in not adding 30% of the total income towards future prospects and finally awarded a sum of Rs.5,40,000/- towards loss of income and dependency. Thereafter, the learned Tribunal has awarded only a small amount of Rs.10,000/- each towards loss of love and affection i.e., Rs.20,000/- to the claimants and another Rs.2500/- has been awarded to the funeral expenses and Rs.10,000/- has been awarded towards loss of consortium to wife, which, in my considered view, are very meager amount given under the facts and circumstances of the case. Therefore, this court is not able to find any merit in the appeal. Accordingly, the civil miscellaneous appeal is dismissed with cost of Rs.25,000/-. The connected miscellaneous petition is also dismissed. The Cost is payable to the Claimant's.

5. The appellant Transport Corporation is directed to deposit the award amount along with interest at 7.5% p.a. less the amount already deposited if any, within a period of

four weeks from the date of receipt of a copy of this order. On such deposit, it is open to the claimants to withdraw the amount by moving appropriate application before the Tribunal.

Sd/-
Assistant Registrar(CS II)

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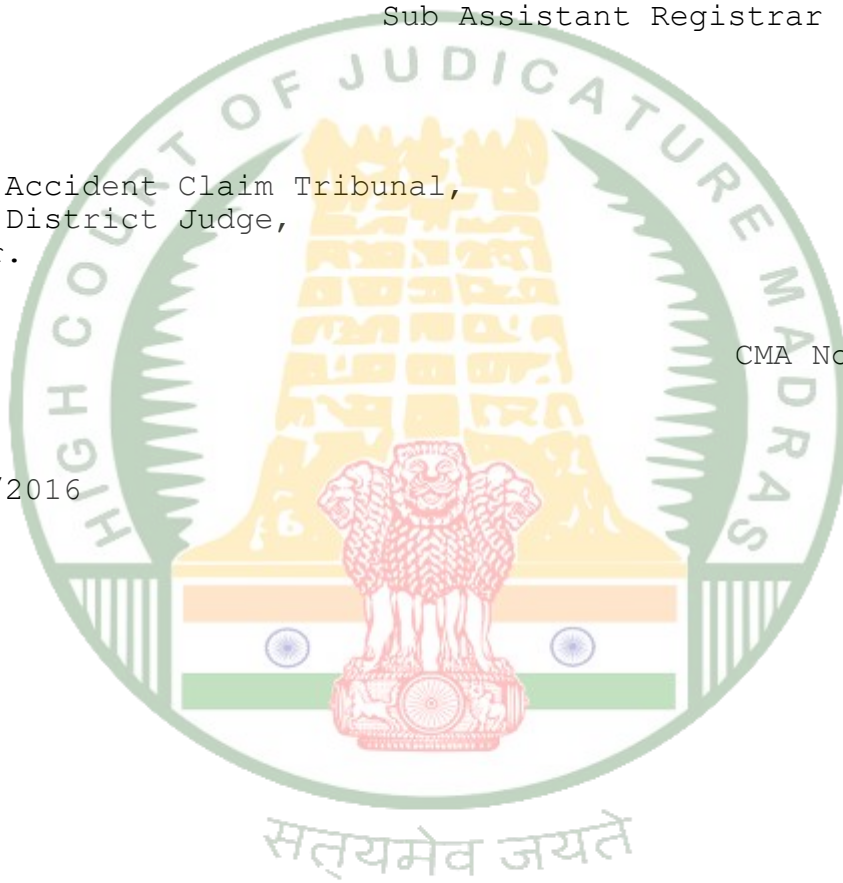
Sub Assistant Registrar

To

The Motor Accident Claim Tribunal,
Principal District Judge,
Tiruvallur.

CMA No.99 of 2016

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