

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No. 993 of 2016

&

C.M.P. No.7558 of 2016

The Managing Director
Tamil Nadu State Transport Corporation,
Dharmapuri. ... Appellant

Vs.

Chellammal ... Respondent

Prayer: Civil Miscellaneous Appeal as against the order and decreetal order dated 24.11.2011 made in M.C.O.P. No.328 of 2009 on the file of Motor Accidents Claims Tribunal (Subordinate Judge), Rasipuram.

For Appellant :: Mr.D.Venkatachalam

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the fair and decreetal order dated 24.11.2011 made in M.C.O.P. No.328 of 2009 on the file of Motor Accidents Claims Tribunal (Subordinate Judge), Rasipuram.

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

3. The respondent/claimant is the wife of the deceased, who was a wholesale businessman of Bricks. Claiming compensation to the tune of Rs.20 lakhs, the respondent/claimant approached the Tribunal and the Tribunal, based on the oral and documentary evidence, awarded compensation to the tune of Rs.10,72,000/-. Aggrieved over the same, the appellant/Transport Corporation is before this Court.

4. The point urged by the learned counsel for the appellant in this appeal is, in the absence of proof of income, the Tribunal ought not to have fixed the monthly income of the deceased at Rs.6,000/- per month and that the total compensation awarded by the Tribunal is excessive.

5. The respondent/claimant in her evidence has stated that at the time of accident, the deceased was earning Rs.15,000/- p.m.. However, no proof has been furnished before the Tribunal. 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 had sustained injuries in an accident which occurred in 2008, determined Rs.6500/- as the monthly income.

6. Taking note of the Syed's case referred to above, since the accident in this case had occurred in the year 2009, 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.6,000/- and the same is very reasonable. After analysing the evidence of P.W.1, the Tribunal came to the conclusion that there is no other document to prove the income of deceased. However, considering the nature of work and age of the deceased, the Tribunal has taken the monthly income of the deceased at Rs.6000/- per month. After deducting 1/3rd for personal expenses of the deceased and adopting multiplier '13', the Tribunal has arrived at the compensation towards loss of dependency at Rs.6,24,000/-. Adding Rs.25,000/- towards loss of consortium, Rs.4,00,000/- towards medical expenses and Rs.5,000/- towards funeral expenses, the Tribunal has awarded total compensation of Rs.10,72,000/-. Though, the respondent/claimant has claimed that the deceased was earning Rs.15,000/- per month, however, no other cogent document has been produced in support of her claim. Considering the nature of work and age of the deceased, the Tribunal has rightly fixed the monthly income of the deceased as Rs.6,000/- per month, which in my view warrants no interference. As far as other conventional heads awarded by the Tribunal are concerned, there is no need for this Court's interference.

7. On a perusal of the Award, I find that the Tribunal has not awarded any amount towards future prospects. As per the decision in 2013 (2) TN MAC 55 (S) [Rajesh and others v. Rajbir Singh and other], 50% of monthly salary is to be added as future prospects. In the absence of any cross objection/appeal by the respondent/claimant, this Court is not inclined to award any amount towards future prospects. Thus, the total compensation awarded by the Tribunal is just and reasonable. The rate of interest awarded by the Tribunal is also quite reasonable.

8. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. There will be no order as to costs in this appeal. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

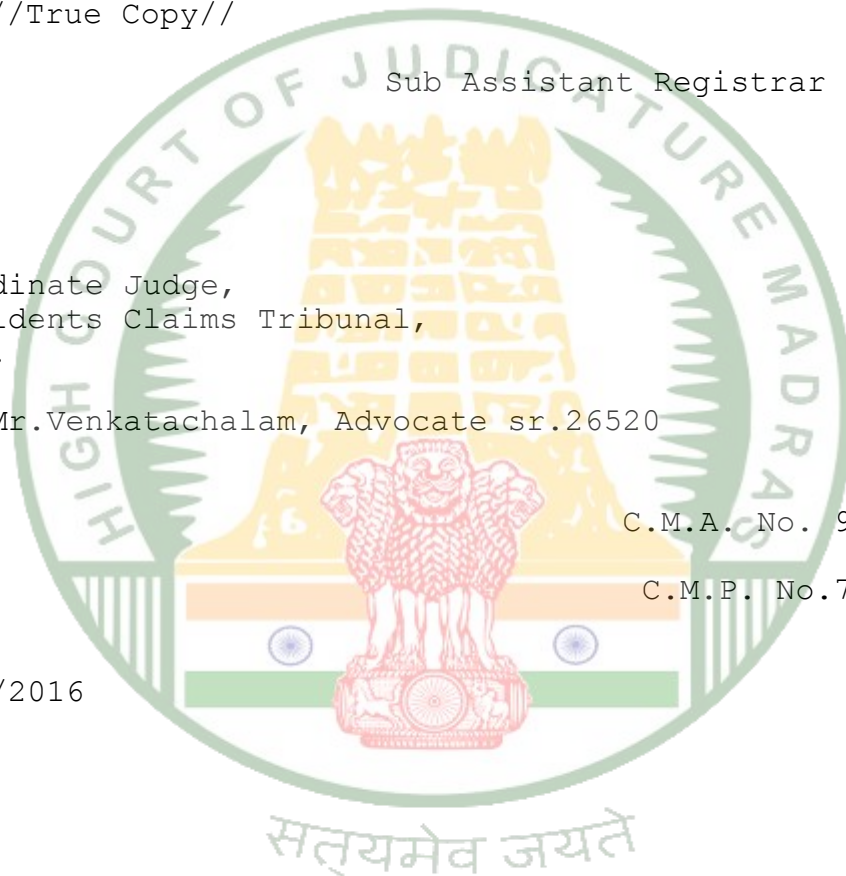
Sub Assistant Registrar

kal
To
The Subordinate Judge,
Motor Accidents Claims Tribunal,
Rasipuram.

+1cca to Mr.Venkatachalam, Advocate sr.26520

C.M.A. No. 993 of 2016
&
C.M.P. No.7558 of 2016

mg[co]
srg 12/08/2016



WEB COPY