

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 14.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T. MATHIVANAN

C.M.A.No.997 of 2016

S.Munuswamy

...Appellant/petitioner

...VS...

Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam Division,
Rep.by its Managing Director,
Periyamilaguparai,
Trichy 620 011.

... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal is filed against the judgment and decree dated 16.12.2013 made in M.C.O.P.No.4116 of 2012 on the file of Motor Accident Claims Tribunal(IV Small Causes Court), Chennai.

For Appellant

:Mr.K.Varadha Kamaraj

For Respondent

:Mr.D.Venkatachalam

JUDGMENT

Having been aggrieved by the award passed by the Tribunal to the extent of Rs.3,81,000/- as against the claim of Rs.6,00,000/-. This appeal is filed by the claimant for the enhancement of compensation.

2. As manifested from the records that on 20.12.2011 at about 10.15 p.m, when the deceased who is none other than wife of the appellant was proceeding by walk at Trichy to Chennai National Highway near Sirughanur Bharath Petrol Bunk, the respondent's bus bearing Registration No.TN 45 N 2499 came fast coupled with rashness and negligence and dashed against the deceased. On account of this impact, the deceased had died on the spot. According to the appellant/deceased was an Agricultural labourer and earned a sum of Rs.8,000/- per mensem. The Tribunal had determined the monthly income of the deceased at Rs.4,500/- It is also to be noted that the deceased was aged about 50 years at the time of occurrence. Therefore, the Tribunal had selected the multiplier of 13 and giving 50% deduction instead of 1/3rd and calculated the pecuniary loss of the family at Rs.3,51,000/-. Apart from this, towards the loss of consortium a sum of Rs.10,000/- was granted and funeral expenses at Rs.10,000/- and loss of love and affection at Rs.10,000/- was granted. Totally a sum of Rs.3,81,000/- was allowed towards the compensation.

3. Mr.K.Varadha Kamaraj, learned counsel for the petitioner has submitted that as per the judicial pronouncements, the Tribunal ought to have been given 1/3rd deduction towards the personal living expenses, but, it had given 50% deduction which would affect the rights of the appellant/claimant in getting just compensation.

4.Originally, the Tribunal has awarded after giving 50% deduction to the extent of Rs.3,51,000/- towards the pecuniary loss. This amount has been increased to Rs.4,68,000/- under the head of loss of consortium as well as funeral expenses and loss of love and affection, the Tribunal has awarded Rs.10,000/- each. Now the compensation has been increased as detailed hereunder:-

Loss of Consortium	Rs.50,000/-
Funeral expenses	Rs.25,000/-
Towards transport expenses	Rs. 5,000/-

Therefore, taken into consideration of the above said facts, the respondent/appellant is entitled to make a sum of Rs.5,48,000/- under the following heads:-

Loss of income is (Rs.3000*12*13)=Rs.4,68,000/-	
Loss of Consortium	=Rs. 50,000/-
Funeral Expenses	=Rs. 25,000/-
Transport	=Rs. 5,000/-
Total	Rs. 5,48,000/-

5. As discussed in the foregoing paragraph the monthly income of the deceased as determined by the Tribunal is Rs.4500/- Annual income is (Rs.4500*12=Rs.54000/-)After giving deduction 1/3, the 2/3rd remainder would be Rs.36,000/-. Applying the multiplier of 13 the pecuniary of loss of the family is Rs.4,68,000/-

6. Already, the Tribunal has granted Rs.3,81,000/- along with interest at the rate of 7.5% per mensem from the date of petition. Therefore, the compensation has been increased to Rs.5,48,000/- by enhancing Rs.1,67,000/-. Now, the respondent/Transport Corporation is directed to pay the enhanced compensation of Rs.1,67,000/- with interest at 7.5% from the date of petition . The interest for the period of 473 days shall not be calculated. The enhanced amount with 7.5% by interest (without calculating interest for 473 days) shall be deposited within a period of four weeks from the date of receipt of a copy of this order.

7. Accordingly, this Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Motor Accident Claims Tribunal(IV Small Causes Court),
Chennai.

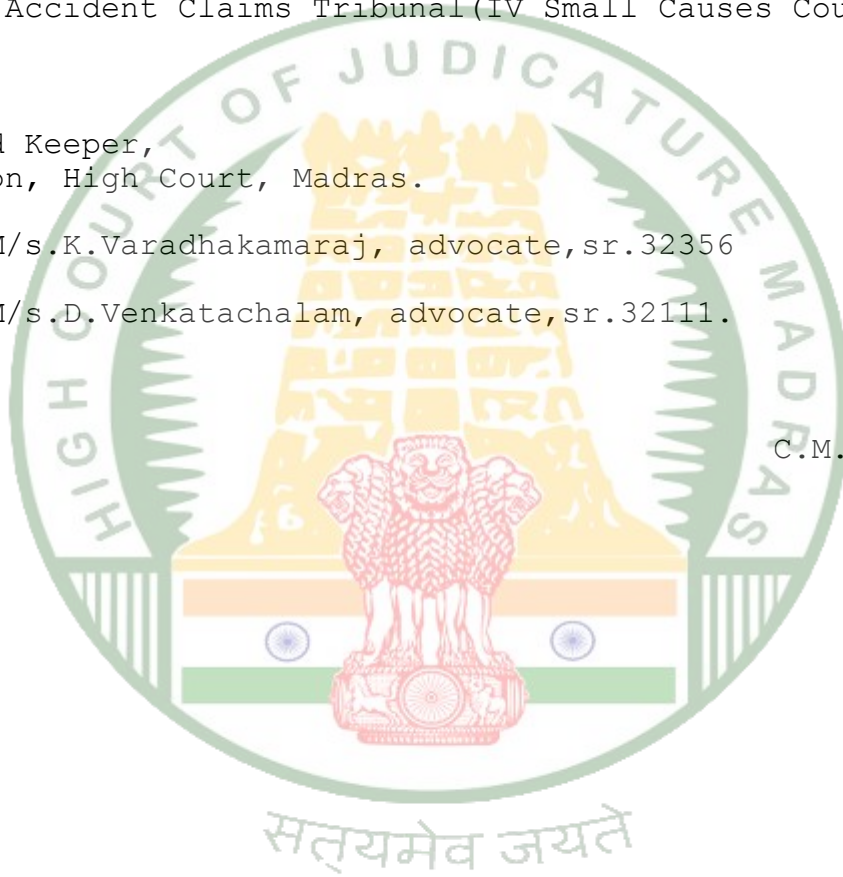
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mp(co)
krd 16/8

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