

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.04.2016

CORAM

THE HON'BLE Mr.JUSTICE S.VAIDYANATHAN

C.M.A.No.999 of 2016
and C.M.P.No.7596 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation,
Kumbakonam.

..Appellant/Respondent

Vs.

1.Jainambu Beevi
2.Minor Aasika
3.Minor Aafrin Parveen
4.Minor Noorul Riffana
Minors 2 to 4 are rep. by
their mother guardian 1st
respondent/Jainambu beevi
5.Bakkir Muhammed
6.Meharaj Begum

...Respondents/Petitioner

Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988 against the order and decreetal order dated 30.09.2013 made in M.C.O.P.No.113 of 2013 on the file of the Motor Accident Claims Tribunal, District Court, Nagapattinam.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the order and decreetal order dated 30.09.2013 passed in M.C.O.P.No.113 of 2013 on the file of the Motor Accident Claims Tribunal, District Court, Nagapattinam.

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

3. For the death of one Baava Bakrudheen, who was aged 25 years and was working as a Auto Driver, his wife, three minor children and parents of the deceased, filed a claim petition before the Tribunal claiming a sum of Rs.15,00,000/- as compensation. The accident in question took place on 17.11.2010. The Tribunal, taking note of the factual aspects,

fixed the monthly income of the deceased at Rs.4,500/- and by adopting multiplier method, awarded compensation to the tune of Rs.6,48,000/- towards loss of income, besides awarding a sum of Rs.25,000/- towards loss of consortium, a sum of Rs.15,000/- towards loss of love and affection to respondents 2 to 4, a sum of Rs.10,000/- towards loss of love and affection to respondents 5 and 6 and a sum of Rs.12,000/- towards funeral expenses, totalling a sum of Rs.7,10,000/- together with interest at 7.5% p.a. Aggrieved over the same, the present Civil Miscellaneous Appeal is filed by the Transport Corporation.

4. According to the learned counsel for the appellant/Transport Corporation, the Tribunal failed to take note of the evidence of R.W.1-Driver 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 accident was caused by the appellant/Transport Corporation bus, due to which the deceased sustained grievous injuries and died on 17.10.2010. The contention of the learned counsel for the appellant is that in the absence of proof of income, the Tribunal has fixed the monthly income of the deceased at Rs.4,500/-, though the claimants claimed a sum of Rs.9,000/-, which is on the higher side. 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 sustained injuries in an accident which occurred in 2008, determined Rs.6500/- as the monthly income. Taking note of the Syed's case referred to above, I am of the view that the income determined by the Tribunal is far less. Further, the Tribunal has adopted the multiplier taking into account the age of the claimants and not that of the deceased in awarding compensation and the Tribunal while calculating of loss of dependency has rightly adopted the multiplier, which cannot found fault with and the same is confirmed. That apart, the Tribunal has not granted any amount towards future prospects. 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 M.C.O.P.No.113 of 2013 on the file of the Motor Accident Claims Tribunal [District Judge], Nagapattinam, if not already deposited, within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the claimants 1,5 & 6 are entitled to withdraw their respective shares as apportioned by the Tribunal on filing necessary applications before the Tribunal. Insofar as the minors'

shares are concerned, the Tribunal is directed to deposit in any one of the nationalized bank and the first claimant/wife of the deceased is permitted to withdraw the accrued interest once in three months till they attain majority. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(V)

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Sub Assistant Registrar

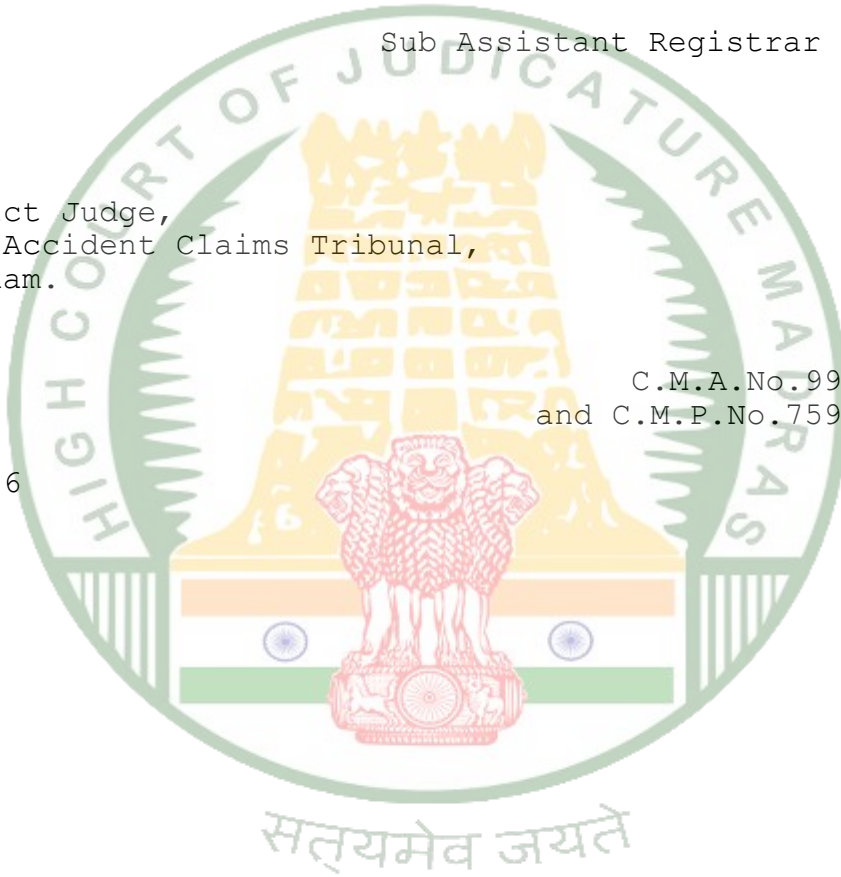
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To

The District Judge,
The Motor Accident Claims Tribunal,
Nagapattinam.

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and C.M.P.No.7596 of 2016

GJ(CO)
EU 19.09.16



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