

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.2143 of 2014
and M.P.No.1 of 2014

The Managing Director
Tamil Nadu State Transport Corporation
Salem Division,
Salem 7. Appellant/Respondent

vs.

Marisamy (Died)
1. Thangammal
2. Vasantha
3. Palaniyammal
4. Settu
5.Duraisamy ...Respondents/respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 31.07.2013 passed in M.C.O.P.No.1280 of 2010 on the file of the Motor Accidents Claims Tribunal, Additional District Judge-II, Salem.

For Appellant : Mr.D.Venkatachalam

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the Judgment and decree dated 31.07.2013 passed in M.C.O.P.No.1280 of 2010, on the file of the Motor Accidents Claims Tribunal, Additional District Judge-II, Salem.

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

3. Husband and children of the deceased are the claimants. They filed a claim petition before the Tribunal stating that they are the legal representatives of the deceased vegetable vendor aged 41 years, who met with a fatal accident on 28.06.2009 while travelling as a passenger, approached the

Tribunal, claiming compensation to the tune of Rs.6,00,000/-. The Tribunal, taking note of the factual aspect, fixed the monthly income at Rs.4,500/- per month and by adopting multiplier method and after deducting 1/4th towards personal expenses, awarded the compensation to the tune of Rs.5,67,000/- towards loss of dependency, besides awarding a sum of Rs.30,000/- towards loss of love and affection and a sum of Rs.5,000/- towards funeral expenses and a sum of Rs.5,000/- towards transportation and a sum of Rs.1,000/- towards damage to clothes thus, totalling a sum of Rs.6.08.000/- 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/Corporation, the driver of the Corporation Bus, drove the bus by following the rules and a lorry came in opposite direction in a rash and negligent manner and so as to avoid the accident, the driver took a turn in the left side of the road and hit against the well and thus, the driver of the bus is no way responsible for the accident. It is further contended that the Tribunal erred by fixing the monthly income at Rs.4,500/-, without any valid proof.

5. The accident has not been disputed and it is also the fact that on account of the accident caused by the Corporation bus, the deceased sustained grievous injuries and died on 28.06.2002. That apart, as far as the contention raised by the counsel for the appellant that in the absence of proof of income, the Tribunal has taken the monthly income at Rs.4,500/- will not hold good as in the case reported in 2010 CDJ MHC 1961, wherein, the income of the deceased had been fixed at Rs.4,500/-. Hence, I am of the view that the compensation awarded by the Tribunal in fixing the monthly income at Rs.4,500/- is very reasonable. It is also seen that no provision has been made towards future prospects in view of the judgment reported in 2013(2) TNMAC 55. In view of the above, I find no reason to interfere with the award of the Tribunal.

6. 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.1280 of 2010 on the file of the Motor Accident Claims Tribunal, Additional District Judge-II, Salem 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 claimants are entitled to withdraw their respective shares as apportioned

by the Tribunal on filing necessary applications before the Tribunal. There will be no order as to costs in this appeal. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

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Sub Assistant Registrar

To

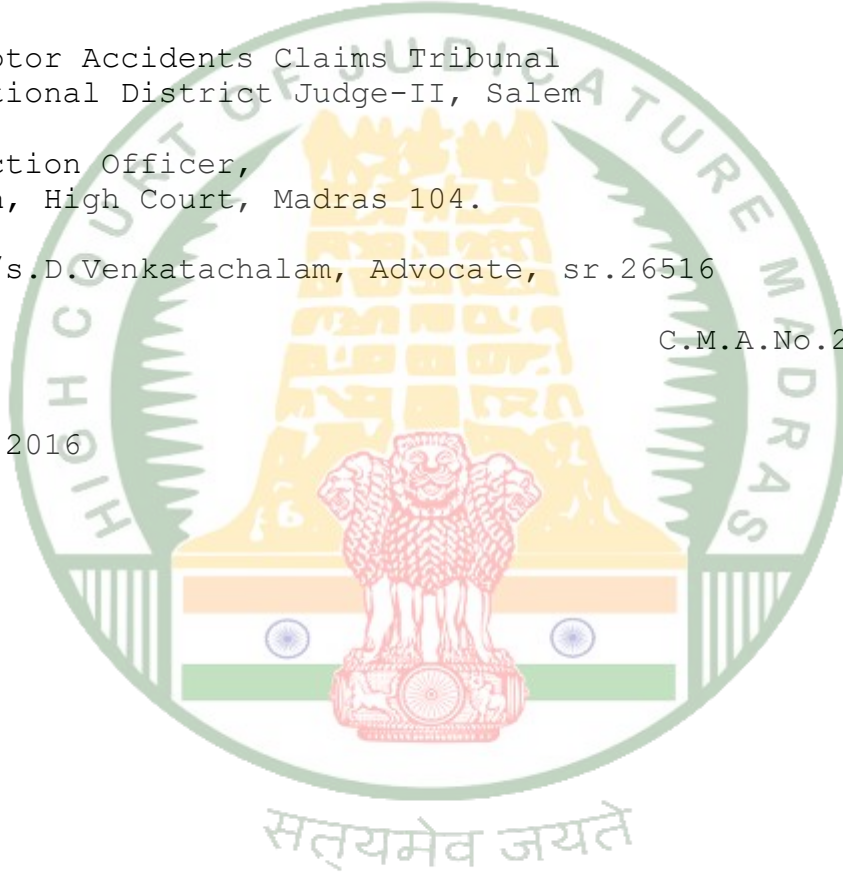
1. The Motor Accidents Claims Tribunal
Additional District Judge-II, Salem

2. The Section Officer,
VR Section, High Court, Madras 104.

1 cc to M/s.D.Venkatachalam, Advocate, sr.26516

C.M.A.No.2143 of 2014

rsk co
kra 15.06.2016



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