

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.3296 of 2014
and M.P.No.1 of 2014

The Managing Director
Tamil Nadu State Transport Corporation Ltd
Division III, Kancheepuram. ... Appellant/Respondent

vs.

1. S.Thaiyanayagi
2. Minor S.Abinesh
3. Minor S.Apasana
(Minors rep. by their mother
and natural guardian -1st respondent
S.Thaiyanayagi)

4. S.Alamelu
5. A.Shanmugam Respondents/Petitioners

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 25.07.2014 passed in M.C.O.P.No.379 of 2011 on the file of the Motor Accidents Claims Tribunal (District Court,II) Kanchipuram.

For Appellant : Mr.P.Paramasivadoss

For Respondents : Mr.C.Prabakaran

JUDGMENT

(Judgment of the Court was delivered by R.SUDHAKAR,J.)

The Transport Corporation is on appeal challenging the Judgment dated 25.07.2014 passed in M.C.O.P.No.379 of 2011 on the file of the Motor Accidents Claims Tribunal (District Court, II) Kanchipuram.

2. It is a case of fatal accident. On 19.11.2011 at about 12.10 p.m., when the deceased Sekar, aged about 49 years was riding a Hero Honda Cycle bearing Registration No.TN 21 AF 3236 from Walajabad to Kancheepuram, near Devi Primary Children School at Venkudi Village on the Kancheepuram - Chengalpattu Road, the appellant bus bearing Registration No.TN 21 N 116,

which was driven from Kancheepuram to Tambaram in a rash and negligent manner, dashed against the deceased motor cycle and caused the accident, due to which, the deceased sustained fatal injuries and died in the hospital. The claimants, who are wife, children and parents of the deceased have filed a claim for compensation for a sum of Rs.60,00,000/-.

3. In support of the claim, the wife of the deceased was examined as P.W.1; the Superintendent attached to Superintendent of Police Santhanam was examined as P.W.2 and one Anandan, an eye witness was examined as P.W.3. and Exs.P-1 to Ex.P.9 were marked, the details of which are as follows:-

Ex.No.	Details
P1	xerox copy of the FIR
P2	xerox copy of the charge sheet
P3	xerox copy of the Motor Vehicle Inspector's report
P4	xerox copy of the post mortem certificate
P5	xerox copy of the death certificate
P6	True copy of the legal heir certificate
P7	Salary Certificate
P8	Promotion list
P9	xerox copy of the service book 1st page

On behalf of the Transport Corporation, the driver, who drove the bus at the time of accident was examined as R.W.1, however, no documents were marked on their side before the Tribunal.

4. The Tribunal based on the oral evidence of the witnesses, the F.I.R. and also taking note of the fact that the deceased was having valid driving licence to drive the two wheeler came to the conclusion that the driver of the lorry was rash and negligent and was responsible for the accident and consequently liability was fixed on the Transport Corporation. On this issue, learned counsel for the appellant has no serious objection with regard to the finding of the Tribunal as no material has been placed to come to a different conclusion from that of the conclusion arrived at by the Tribunal.

5. Based on the oral and documentary evidence, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl.No	Head	Amount granted by the Tribunal
1	Loss of pecuniary benefits to the dependents of the deceased	Rs.35,86,720/-
2	Loss of love and affection and Consortium	Rs. 1,00,000/-
3	Funeral expenses	Rs. 13,280/-
	Total	Rs.37,00,000/-

6. Insofar as the compensation is concerned, based on the categorical evidence of P.W.2, Santhanam, the Tribunal fixed the salary of the deceased as Rs.26,529/-, which is very reasonable and is justified.

7. The Tribunal, based on the Apex Court's judgment in Sarla Verma's case, added 30% towards future prospects and in view of the large family that the deceased was supporting, deducted 1/3 towards his personal expenses, which appears to be justified.

8. Considering the age of the deceased, at the time of accident, namely, 49 years, the Tribunal adopted 13 multiplier in consonance of the Apex Court's decision in Sarla Verma - vs. - Delhi Transport Corporation, 2009(2) TNMAC 1 (SC). Therefore, this Court finds no good reason to reduce the multiplier and the quantum of compensation awarded by the Tribunal to the tune of Rs.37,00,000/-.

9. There is no serious objection in respect of the other amounts granted or the interest granted at 7.5% per annum.

10. In the above circumstances, finding no merit, the Civil Miscellaneous Appeal is dismissed.

11. The appellant Transport Corporation is directed to deposit the entire award amount, with interest and costs, if not already deposited, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, major claimants, including the 2nd respondent, who would have attained majority by now, are permitted to withdraw their respective shares as apportioned by the Tribunal. The share of the minor/3rd respondent shall continue to be in deposit till she attains majority and the 1st respondent is permitted to withdraw

interest accruing on such deposit once in three months. There will be no order as to costs. Connected miscellaneous petition is also dismissed.

rg

-s/d-
Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

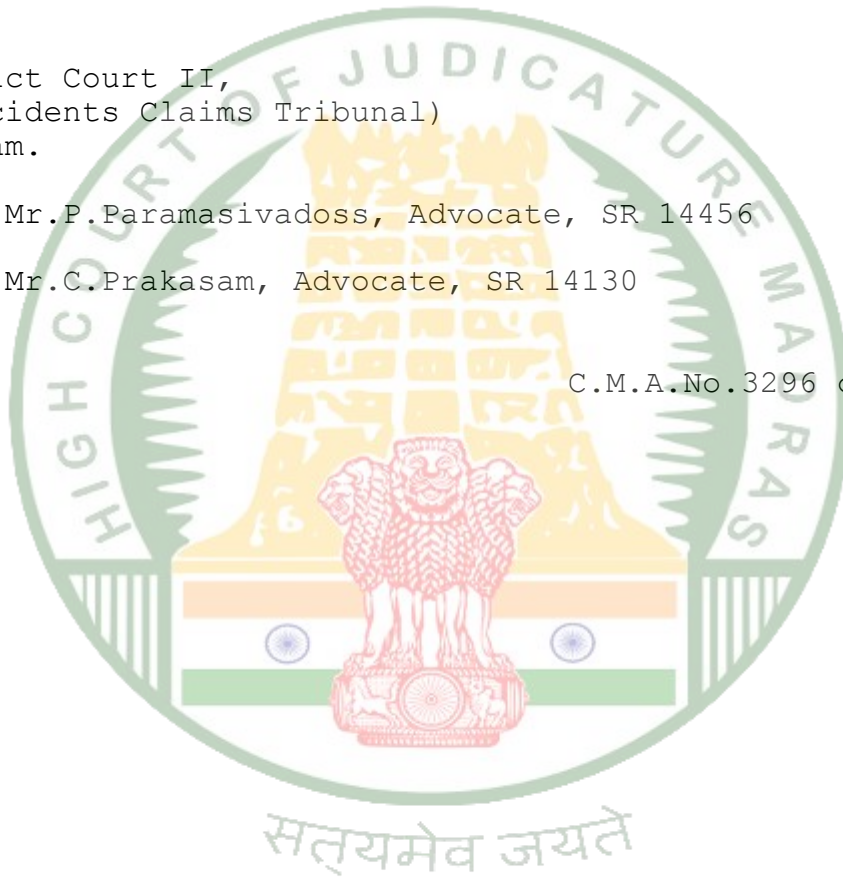
The District Court II,
(Motor Accidents Claims Tribunal)
Kanchipuram.

+ 1 cc to Mr.P.Paramasivadosh, Advocate, SR 14456

+ 1 cc to Mr.C.Prakasam, Advocate, SR 14130

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