

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.3043 of 2008

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Division - 2,
Villupuram. Appellant/ 2nd Respondent

vs.

1. I.Meera Sha
2. M.Dunisha
3. Minor Mohammed Rasik
4. Minor Jeeyavul Huek
5. Minor Syed Alifathima
Minors 3 to 5 rep. by natural
guardian and father /R1 I.Meera Sha
...Respondents 1 to 5/Petitioners
6. The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division I, 12, Ramakrishna Road,
Salem-7. 6th Respondent/1st Respondent
(R6 not necessary party in CMA)

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the fair and decretal order dated 22.05.2007 passed in M.C.O.P.No.559 of 2000 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Salem.

For Appellant : Mr.K.J.Sivakumar

For Respondents 1 to 5: Mr.E.Gopi for R1 to R5
R6 : Given up

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Chief Judicial magistrate, Salem in M.C.O.P.No.559 of 2000 dated 22.05.2007.

2. It is a case of fatal accident. On 24.10.1999 at about 4.35 p.m., while the deceased Ibrahim, was riding a M-80 Bike bearing Reg. No.TN 27-D/3405 from Salem new Bus Stand towards V.O.C. Market, Salem at his extreme left side of the road, the driver of the Bus bearing Registration No.TN-27-N-0889, TSTC bus

Division Office-I, Salem, which was driven in a rash and negligent manner, hit against the deceased Ibrahim, near Kalpana Theatre, due to which, he died on the spot. The father, mother and two younger brothers and sister who are the claimants/legal representatives of the deceased, have filed a claim petition before the Tribunal seeking compensation of a sum of Rs.5,00,000/-.

3. The Tribunal based on the oral evidence of the witnesses, and the 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 Income	Rs.3,40,000/-
2	Transportation & Personal Expense	Rs. 10,000/-
3	Loss of love and affection	Rs. 30,000/-
	Total	Rs.3,80,000/-

4. The learned counsel for the appellant would submit that awarding a compensation of a sum of Rs.3,80,000/- towards the death of the deceased Ibrahim aged about 23 years old, in favour of his parents, two brothers and sister is highly excessive and unsustainable. Therefore, the learned counsel for the appellant has sought for allowing of the Civil Miscellaneous Appeal.

5. This Court heard the submissions made by the learned counsel for the appellant and perused the materials available on record.

6. It is an admitted fact that the claimants are the legal representatives of the deceased. The deceased was working as a sales- man in a Grocery Shop and at the time of accident, the deceased was aged about 23 years. The Tribunal by fixing his income at Rs.2,500/- p.m. as claimed by the claimants, awarded compensation at Rs.3,80,000/- apart from conventional heads. However, this Court makes it very clear that the Tribunal has adopted the multiplier '17' instead of '18' and also the compensation granted towards 'Love and Affection' is also very meagre. Considering the fact that the deceased, being the elder son of the family, taking care of two younger brothers and younger sister, the compensation awarded by the Tribunal cannot be said to be excessive. Hence, I find that the quantum of compensation determined by the Tribunal need not be interfered with.

7. 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.559 of 2000 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), 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.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

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To

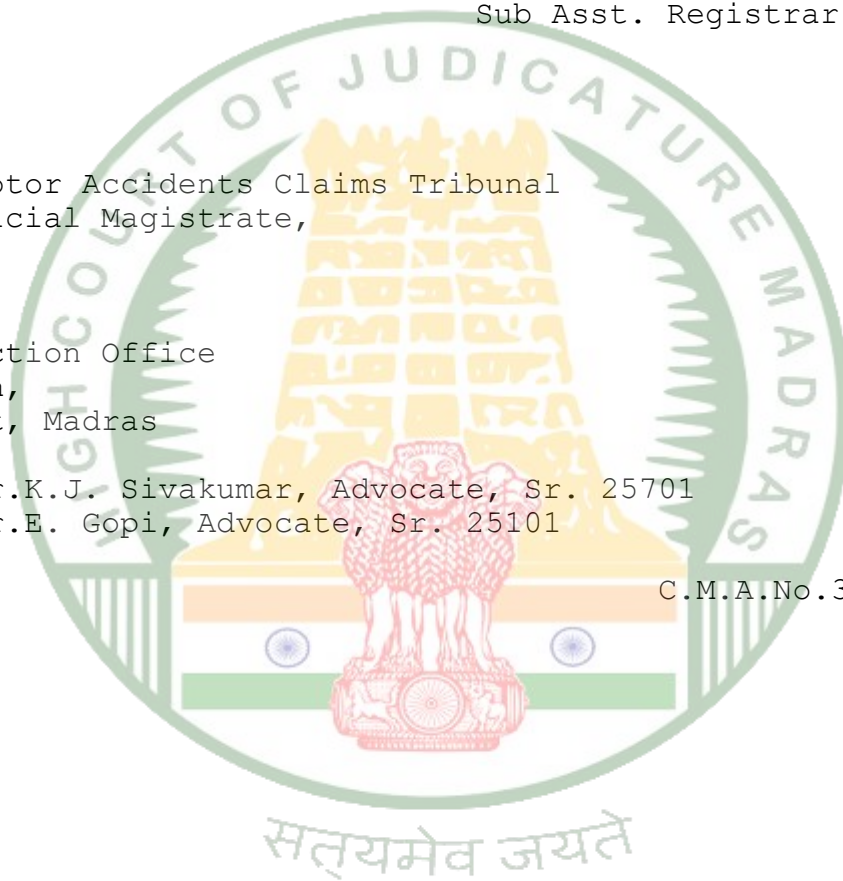
1. The Motor Accidents Claims Tribunal
Chief Judicial Magistrate,
Salem.

2. The Section Office
VR Section,
High Court, Madras

1 cc to Mr.K.J. Sivakumar, Advocate, Sr. 25701
1 cc to Mr.E. Gopi, Advocate, Sr. 25101

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EV (CO)
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