

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.3456 of 2013

and

M.P. No.1 of 2013

The Managing Director
Tamil Nadu State Transport
Corporation Ltd.,
Railway Station Road,
Kumbakonam Town

.... Appellant/Respondent

Vs.

1. Natarajan
2. Lakshmi
3. Minor Abinaya
4. Minor Madhumitha
5. Minor Nishanthini
(Respondents 3 to 5 rep
through their father/Guardian
1st Respondent)
....Respondents/ Petitioners

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 08.04.2013 made in M.C.O.P No.345 of 2012 on the file of the Motor Accident Claims Tribunal, (District Judge) at Tiruvarur.

For Appellant : Mr. D. Venkatachalam

For Respondents: R1 & 2 Not ready in notice
R 3 to 5 - Given up

J U D G M E N T

The Transport Corporation has come up with this appeal challenging the negligence and quantum of compensation awarded by the Tribunal.

2. On 25.10.2007, when the deceased Nedumaran was travelling as a pillion rider, with his friend in a motor cycle bearing Registration No.TN 50 E 0716, at Sigarpalayam Manavalampettai Vaikkal Thalaippu, the appellant Transport Corporation bus bearing Registration No.TN 49 N 1000, driven in a rash and negligent manner, dashed against the motor cycle.

Due to the accident, the deceased sustained grievous fatal injuries and died in the hospital. The Claim Petition has been filed by his parents and minor sisters, before the Tribunal, seeking a sum of Rs.15,00,000/- as compensation. After analyzing the available oral and documentary evidences, the Tribunal awarded a sum of Rs.3,20,000/- as compensation, under the following heads:

Sl. No	Heads	Amount
1	Loss of dependency	Rs.1,60,000.00
2	Love and Affection	Rs. 5,000.00
3	Funeral Expenses	Rs. 2,000.00
4	Transportation	Rs. 3,000.00
5	Future Prospects	Rs. 75,000.00
6	Loss of Expectation	Rs. 75,000.00
	Total	Rs.3,20,000.00

3. Learned counsel appearing for the appellant/Transport Corporation, challenging negligence, mainly contended that the rider of the motor cycle, along with two others, came in a hectic speed in the opposite direction and dashed against the appellant Corporation bus in the front, due to which the deceased sustained fatal injuries and hence the entire negligence is on the part of the rider of the motor cycle. He further contended that 3 persons were travelling in the motor cycle, which is in violation of the M.V. Act and that the owner of the motor cycle and the Insurance Company has not been impleaded before the Tribunal. That apart, the compensation granted under the headings 'Loss of dependency', 'Loss of Expectation of Life' and 'Future Prospects' are on the higher side and the same have to be reduced. Challenging the award on the above grounds, this appeal has been filed.

4. On the other hand, learned counsel appearing for the respondents/claimants would submit that though two FIRs were registered initially, during cross examination by the claimants, the driver of the Transport Corporation bus, RW-1, admitted that a criminal case is pending against him before the Judicial Magistrate, Nannilam. Hence, on analysing the records, the Tribunal has come to the conclusion that RW-1 Transport Corporation bus driver is responsible for the accident. Hence, the appellant Insurance Company is liable to pay the compensation. Learned counsel further contended that the Tribunal considering the age of the deceased and the dependents, has granted a fair and reasonable compensation. On the above grounds, he prayed to dismiss this Appeal.

5. This Court considered the submissions made on the learned counsel on either side and perused the materials available on record.

6. Perusal of the records would show that initially two FIRs were registered, one against the Driver of the Transport Corporation Bus and the other against the rider of the motor cycle. After investigation, the FIR filed against the driver of the Transport Corporation bus, resulted in filing of the charge sheet. During cross examination by the claimants, the driver of the bus, admitted that a criminal case is pending against him before the Judicial Magistrate, Nannilam. Thus, after analysing the records, the Tribunal came to the conclusion that the negligence is only on the part of driver of the Transport Corporation bus and not on the rider of the motor cycle. This Court does not have a different view and is not inclined to interfere with the compensation awarded by the Tribunal and the same is confirmed.

7. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. The appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest, less the amount already deposited, to the credit of M.C.O.P.No.345 of 2012 on the file of the Motor Accidents Claims Tribunal, District Judge, Tiruvarur, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the claimant in the form of a crossed Account Payee Cheque, favouring only the claimant and it should not be issued in favour of any other person/Company. No costs. Consequently, the M.P. is closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

To :

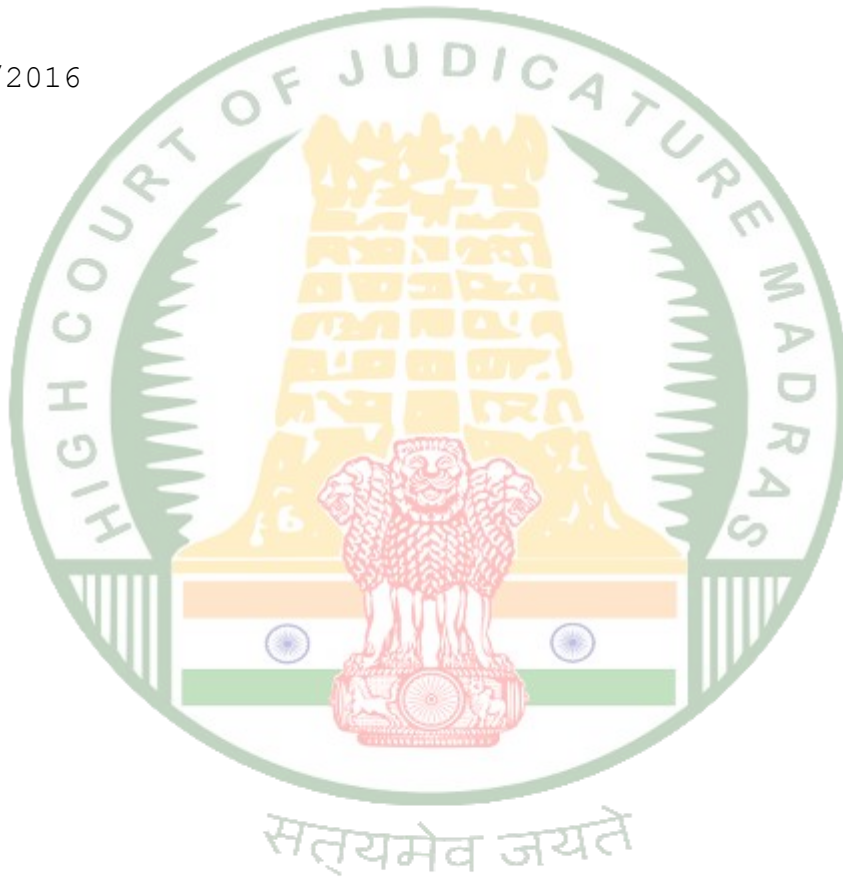
1.The District Judge
Motor Accidents Claims Tribunal,
Tiruvarur.

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

+lcc to Mr.D.Venkatachalam, Advocate Sr.14776

C.M.A.NO.3456 of 2013
and
M.P. No.1 of 2013

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srg 15/06/2016



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