

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2016

CORAM

THE HON'BLE MR.JUSTICE N. SESHASAYEE

C.M.A.No.1988 of 2004

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division No.I,
Villupuram.

..Appellant/First Respondent

Vs

1.P.Dhakshinamoorthy

2.P.S.Murugesan

3.National Insurance Company Ltd.,
Cuddalore Branch
165, Nethaji Road, Manjakuppam,
Cuddalore Taluk.

...Respondents/Petitioner & 2nd & 3rd
respondents

Prayer : Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed by the Motor Accident Claims Tribunal (Additional Subordinate Judge), Cuddalore in MCOP.No.870 of 1998, dated 02.12.2002.

For Appellant : No Appearance

For Respondents : Mr.R.Muralidharan [for R1]
Mr.S.Vadivel [for R3]

JUDGMENT

This Civil Miscellaneous Appeal is preferred by the Tamil Nadu State Transport Corporation challenging the award passed in MCOP.No.870 of 1998 by the Motor Accident Claims Tribunal (Additional Subordinate Court), Cuddalore.

2. On 12.01.1998, a road accident took place while a car in which the claimant, who is the first respondent herein was travelling along with his wife and grand child met with an accident when a bus bearing registration No.TN31-N-0194 belonging to the appellant/State Transport Corporation collided with it. In the said accident, the wife and grand child of the first respondent/claimant died, whereas the claimant suffered serious injuries to his left hand. In all, three claims were preferred before the Tribunal and they are in MCOP.No.868 of 1998, MCOP.No.871 of 1998, and the one involved in the present claim in MCOP.No.9870 of 1998. MCOP.Nos.868 and 871 of 1998 were disposed of by a common award dated 04.07.2001 and a copy of the award is available on record as Ex.P5. Both in Ex.P5 as well as the award impugned in this case, the Tribunal has found that the driver of the bus of the appellant Corporation was negligent. There is no evidence whether the appeals were preferred challenging the award passed by the Tribunal in MCOP.Nos.868 & 871 of 1998.

3. For the injuries suffered, the claimant who was 58 years at that relevant time and was running a provision shop and having suffered 35% injury as per the medical information available on record by the evidence of PW.2, the doctor, made a claim for Rs.3,00,000/- as compensation, whereas the Tribunal has awarded Rs.1,03,560/- with 9% interest. In quantifying the damages on the head of functional disabilities suffered by the claimant, the Tribunal has reckoned the income of the claimant at Rs.2,100/- per month (Rs.70/- per day) and applied a multiplier of 8 and then reduced it by 35%, and determined the compensation payable at Rs.70,560/-

4. It is submitted by the counsel for the first respondent herein that his client has passed away on 30.04.2007, and the same has been informed to the Court vide his memo dated 03.03.2009. He also submitted that the said factum was brought to the notice of the counsel for the Corporation at different points of time, but till date no steps have been taken to bring on record the legal representatives of the deceased claimant. Technically the appeal abates, and even if it is to be considered on merit, I find no material to consider that the award is erroneous in any aspect. I therefore confirm the award passed in MCOP.No.870 of 1998 by the Tribunal and the appeal is accordingly dismissed as abated. No costs.

5. It is stated by the learned counsel for the claimant that the appellant has already deposited the award amount with interest and that certain amount of the compensation award with accrued interest has been withdrawn by the claimant. The legal representatives of the deceased claimant are permitted to withdraw the balance amount lying in the deposit of the Tribunal upon producing relevant materials that are necessary to

establish their identity as the legal representatives of the deceased claimant.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

ds

To:

1)The Motor Accident Claims Tribunal,
(Additional Subordinate Court)
Cuddalore.

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

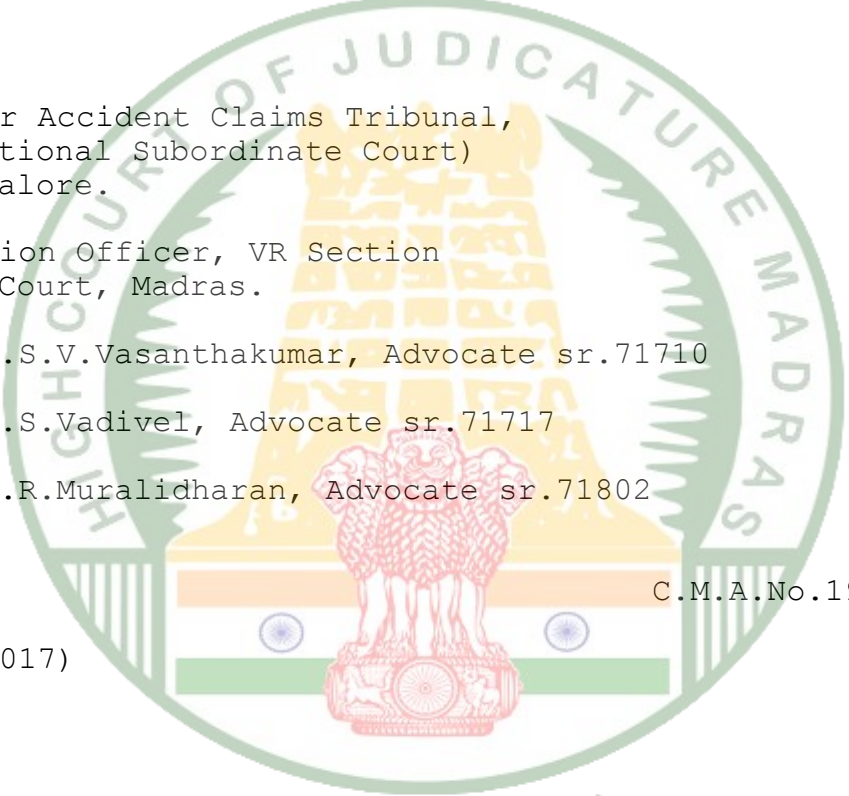
+1cc to Mr.S.V.Vasanthakumar, Advocate sr.71710

+1cc to Mr.S.Vadivel, Advocate sr.71717

+1cc to Mr.R.Muralidharan, Advocate sr.71802

sr(co)
ss(19/01/2017)

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