



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2016

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.180 of 2014

and

M.P(MD) .No.1 of 2014

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam Limited,
Railway station New Road
Kumbakonam.

.. Appellant/1st Respondent

-Vs-

1.Viji

2.Minor Sanjai

3.Minor Amudha

(The minors 2nd and 3rd respondents
are represented by their mother and
natural guardian and next friend
the 1st respondent Viji) .. Respondents 1 to 3/Petitioners

4.Ganesan

5.The New India Assurance Company Ltd.,
Kumbakonam,
represented by its Branch Manager,
Office at 83, Big Street,
Kumbakonam.

.. R4 and R5/R2 and R3

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow this appeal and to set aside the judgment and decree dated 08.04.2013, passed in M.C.O.P.No.90 of 2007, on the file of the Motor Accident Claims Tribunal/Additional Sub Court, Kumbakonam.

For Appellant : Mr.P.Prabhakaran

For R5 : Mr.J.S.Murali

For R1 to R3 : Mr.H.Lakshmi Shankar

**JUDGMENT**

This Civil Miscellaneous Appeal has been filed to set aside the judgment and decree dated 08.04.2013, passed in M.C.O.P.No.90 of 2007, on the file of the Motor Accident Claims Tribunal/Additional Sub Court, Kumbakonam.

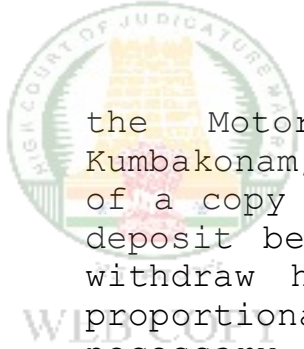
2. It is a case of fatal accident occurred on 24.01.2006, around 3.00 p.m., near Tharasuram to Thiruvallanjuli Anna Statue Rowndana. The legal heirs of the deceased filed a claim petition in M.C.O.P.No.90 of 2007, before the Motor Accident Claims Tribunal/Additional Sub Court, Kumbakonam and the Tribunal, considering the facts and circumstances, awarded a sum of Rs.7,85,000/- as total compensation. Challenging the same, the appellant/the Tamil Nadu State Transport Corporation preferred this appeal.

3. The learned counsel for the appellant mainly contended that the person deceased was a pillion rider in a two-wheeler and he further contended that the driver of the two-wheeler was not in possession of a valid driving licence and also did not wear helmet and the pillion rider also did not wear helmet and both of them contributed for the accident. Therefore, liability ought to have fixed on the driver as well as the pillion rider, but the Tribunal erroneously awarded 100% liability on the Transport Corporation.

4. The learned counsel for the respondents/claimants contended that it is a case of fatal accident and the age of the deceased was 37 years, at the time of accident. Further, he was working as a mechanic in a workshop and he has three dependents, namely, his wife and two children. Hence, the Tribunal has rightly adopted the multiplier and rightly given the compensation to the family of the deceased. It is further contended that the deceased was the only bread winner of the family and now the family is on stress. Such being the pathetic situation of the family of the deceased, this Court is not inclined to reduce or reconsider the compensation granted by the Tribunal. It is to be construed as a just compensation granted to mitigate the circumstances of the family. Hence, the award passed by the Motor Accident Claims Tribunal/Additional Sub Court, Kumbakonam, in M.C.O.P.No.90 of 2007, dated 08.04.2013 is confirmed.

5. In the result, this Civil Miscellaneous Appeal is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

6. The appellant/Tamil Nadu State Transport Corporation is directed to deposit the entire award amount with accrued interest and costs, to the credit of M.C.O.P.No.90 of 2007, on the file of



the Motor Accident Claims Tribunal/Additional Sub Court, Kumbakonam, within a period of four weeks from the date of receipt of a copy of this judgment, if not already deposited and on such deposit being made the first respondent/claimant is permitted to withdraw her share amount as apportioned by the Tribunal with proportionate accrued interest and costs, through RTGS, by filing necessary application before the Tribunal concerned. Further, the Tribunal is directed to deposit the share of the minor claimants, in any one of the Nationalised Banks, in a Fixed Deposit Scheme, till they attain majority, and the first respondent, who is the mother and guardian of the minor respondents is permitted to withdraw the accrued interest, once in three months, from the Bank directly, for the welfare of the minors.

Sd/-

Assistant Registrar(co)

/True Copy/

Sub Assistant Registrar

PJL

To
1.Motor Accident Claims Tribunal,
Additional Sub Court,
Kumbakonam.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.P.PRABHAKARAN Advocate Sr.No. 78842
+1cc to Mr.H.LAKSHMI SHANKAR Advocate Sr.No. 78828
+1cc to Mr.J.S.MURALI Advocate Sr.No. 79401

JAM/23.01.2017/GSV-SV / 3P-6C

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