



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.07.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) .No.591 of 2016

and

C.M.P. (MD) No.6766 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
(Madurai Division-4),
Dindigul.

... Appellant/
Respondent

Vs.

1. Thangamani
2. Minor Karthick
3. Minor Alagarsamy
4. Deva Rajammal

(Respondents Nos.2 & 3 are rep., through at
their mother and next friend 1st respondent herein)

... Respondents/
Petitioners

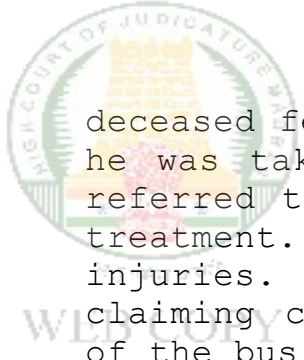
PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the Judgment and Decree passed in M.C.O.P.No.194 of 2006 dated 25th day of October 2007, on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Theni.

For Appellant : Mr.M.Prakash

JUDGMENT

The Transport Corporation has preferred the present appeal against the award passed by the Motor Accidents Claims Tribunal, Principal District Court, Theni, in M.C.O.P.No.194 of 2006, dated 25.10.2007.

2. **Brief facts of the case** are that on 11.09.2002, the deceased Gunasekaran was riding a motorcycle bearing Registration No. TN 57-N-0646 from Surulipatti to Kattumaravu and at that time, a bus bearing Registration No. TN 57-N-0646 came in a rash and negligent manner, hit against the motorcycle. In that process, the



deceased fell down and sustained grievous injuries and immediately he was taken to Kambam Government Hospital. Thereafter, he was referred to Madurai Rajaji Government Hospital for better medical treatment. Despite medical treatment, he succumbed to the injuries. The legal heirs of the deceased filed a petition claiming compensation of Rs.5,00,000/-, alleging that the driver of the bus was responsible for the accident.

3. The claim petition was opposed by the appellant/Transport Corporation disputing the manner of the accident and their liability.

4. The first claimant examined herself as P.W.1 and in her evidence, she has deposed that the deceased was 35 years old and he was working as a Supervisor in a Construction Company, namely, A.S.T. Constructions and earning Rs.5,000/- per month. P.W.1 has produced Ex.P.1 First Information Report and Ex.P.3 Charge Sheet which was filed against the driver of the bus.

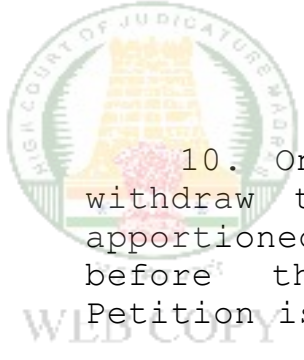
5. P.W.2 Kubendran is an eyewitness to the occurrence and based on the evidence of P.W.2 and Ex.P.1 and Ex.P.3, the Tribunal rightly held that the driver of the bus was responsible for the accident.

6. The claimants have not proved the income of the deceased. Hence, the Tribunal had fixed the income of the deceased as Rs.2,500/- per month and after deducting $1/3^{\text{rd}}$ held that he was contributing Rs.20,000/- p.a., to his family. Ex.P.2 Postmortem Certificate would show that the deceased was 35 years old at the time of the accident and the Tribunal by applying the multiplier '16' held that the claimants are entitled Rs.3,20,000/- and reduced to Rs.3,00,000/-, in view of the payment of award amount in lump sum.

7. The Tribunal has awarded Rs.10,000/- towards medical expenses, Rs.13,000/- towards loss of love and affection, Rs.5,000/- towards transport charges, Rs.2,000/- towards funeral expenses and totally Rs.3,20,000/- together with interest at 7.5% p.a.

8. In the opinion of this Court, the quantum awarded by the Tribunal is fair and reasonable, which does not warrant interference by this Court.

9. **In the result,** the award passed by the Tribunal is confirmed and the Civil Miscellaneous Appeal is dismissed. In view of the dismissal of this appeal, the appellant/Transport Corporation is directed to deposit the entire award amount along with simple interest and costs, if not already deposited, within a period of eight weeks, from the date of receipt of the copy of this Judgment.



10. On such deposit being made, claimants are permitted to withdraw their shares in the award amount, as per the ratio apportioned by the Tribunal, without filing any formal petition before the Tribunal. Consequently, connected Miscellaneous Petition is also closed. No costs.

Sd/-
Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal cum
Principal District Judge, Theni.

+1cc Mr.M.Prakash, Advocate SR.No.36581

pmu

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C.M.A. (MD) .No.591 of 2016
and
C.M.P. (MD) No.6766 of 2016
12.07.2016