

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.11.2017

Coram :

The Honourable Mr. Justice C.T. SELVAM
and
The Honourable Mr. Justice M.V. MURALIDARAN

C.M.A.No. 1220 of 2014

and

M.P.No.1 of 2014

and

Cross Objection No.67 of 2017

Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram (Division) Ltd.,
Villupuram, Villupuram District.

...Appellant in CMA & 2nd respondent
in Cross Objection

Versus

1. Bharathi
W/o. Late Sridhar
2. Anitha
D/o. Late Sridhar
3. Meenatchi
W/o. Late Ramadass
4. Anbu
S/o. Manickam

...Respondents in CMA.Cross
Objections 1 to 3 & 1st Respondent

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, and Cross Objection filed under Order 41 Rule 22 of CPC r/w section 173 of MV Act, 1988 praying to set aside the order of the lower court dated 09.07.2012 made in M.C.O.P.No.122/2011 on the file of the Additional District and Sessions Court No.III, Tirupathur, Vellore District, as devoid of merits.

For Appellants in CMA and
2nd Respondent in Cross Objection : Mr. G. Palani

For Respondents -1 to 3 in CMA
and Cross Objection in Cross Objection : Mr. Jeevagiridharan

Respondent - 4 : No Appearance

J U D G M E N T

(Judgment of the Court was delivered by C. T. SELVAM, J.,)

The Civil Miscellaneous Appeal and Cross Objection are filed against the order of Additional District and Sessions Court No.III, Tirupathur, Vellore District dated 09.07.2012 made in M.C.O.P.No.122/2011.

2. The appellant is the State Transport Corporation and the respondents 1 to 3 are legal heirs of the deceased viz., wife, daughter and mother of the deceased, who died owing to an accident involving a bus bearing Registration No.T.N.23.N.1868 belonging to appellant Transport Corporation and the auto driven by the deceased on 24.11.2008 at about 03:40 p.m.

3. Before the Tribunal, on behalf of the claimants, 2 witnesses were examined and 9 exhibits were marked. One witness was examined on behalf of the appellant Transport Corporation and no exhibits were marked. On appreciation of materials before it, the Tribunal awarded the compensation as follows:

- i) Compensation towards
Loss of Love and Affection
Rs.10,000/- each x 3 = Rs. 30,000/-
- ii) Funeral Expenses = Rs. 10,000/-
- iii) Loss of Income
10,000 x 12 x 13 = Rs.15,60,000
= Rs.16,00,000/-

4. Heard learned counsel for appellant and learned counsel for Cross Objectors/claimants.

5. The Tribunal has found that the deceased died due to accident that took place on 24.11.2008 at 03:40 p.m., when the Auto bearing Registration No.T.N.23.F.2184 driven by the deceased was hit by the rash and negligently driven bus bearing Registration No.T.N.23.N.1868 belonging to the appellant Transport Corporation. FIR had been registered informing that the driver of the Bus had caused the accident.

6. This Court does not find reason to inform, otherwise. The income of the deceased has been fixed at a reasonable figure viz., Rs.10,000/- per month. However, as informed by learned counsel for claimants, no provision has been made for future prospects of the deceased who was aged 48 years.

7. This Court would follow the decision of the Honourable Apex Court in Sarala Verma (SMT) and others Vs. Delhi Transport Corporation and another (2009 6 SCC 121) and include a sum of 25% towards Future Earning Prospects.

8. The legal claimants are 3 in number. It is appropriate to award a sum of Rs.25,000/- for each claimant towards loss of Love and Affection. This Court would also allow a sum of Rs.15,000/- towards Funeral Expenses. Accordingly, the sum payable in compensation shall be as follows:

i) Compensation towards Loss of Love and Affection is Rs.25,000/- each x 3	=	Rs.75,000/-
ii) Funeral Expenses	=	Rs.15,000/-
iii) Loss of Income 10,000 + 25%x12 x 13	=	Rs.19,50,000/-
	=	Rs.20,40,000/-

9. The Civil Miscellaneous Appeal is dismissed and Cross Objection No.67 of 2017 is allowed. No costs. Appellant Transport Corporation is directed to deposit the enhanced amount of Rs.20,40,000/- (Rupees Twenty Lakhs and Forty Thousand) together with interest at 7.5% per annum within a period of eight weeks from the date of receipt of a copy of this judgment. Cross Objectors/Claimants are at liberty to withdraw their respective share as apportioned by the Tribunal on due application. The claimants shall pay necessary Court fee, if any, on the enhanced compensation. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS VII)

//True copy//

Sub Assistant Registrar

mrr

To

1. The Motor Accident Claims Tribunal
Additional District and Sessions Judge,
Additional District and Sessions Court No.III,
Tirupathur, Vellore District.

Copy To

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

+1cc to Mr.G.Palani, Advocate SR.No.84074

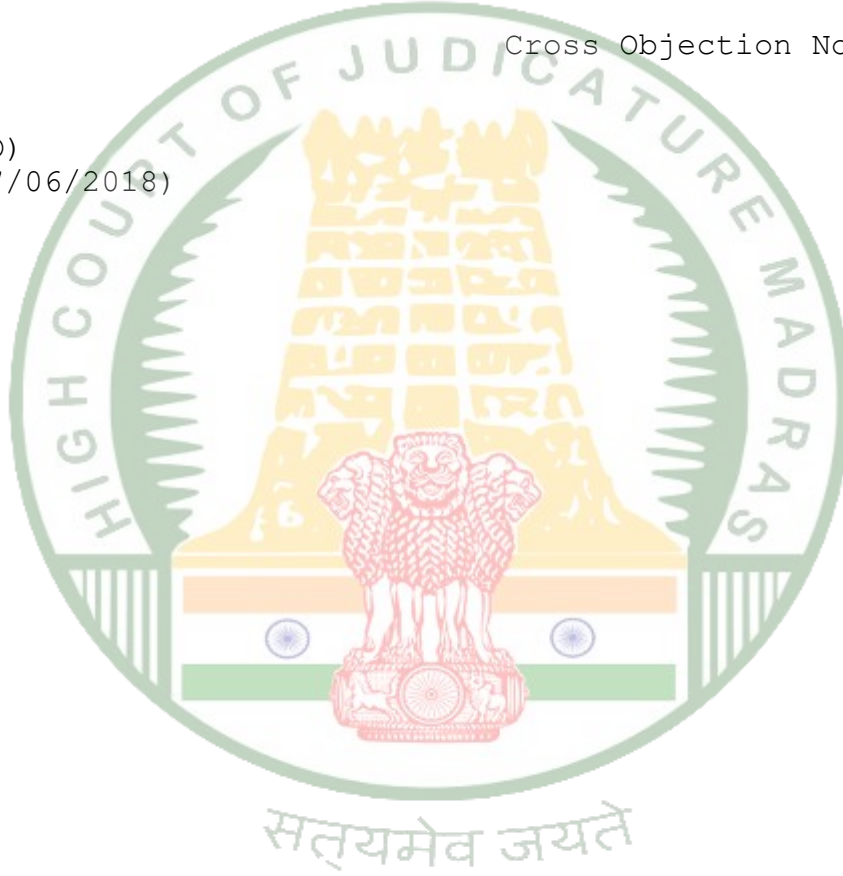
+1cc to Mr.V.Jeevagiridharan, Advocate SR.No.84034

C.M.A.No.1220 of 2014

and

Cross Objection No.67 of 2017

PA (CO)
GN (27/06/2018)



WEB COPY