

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2017

CORAM

THE HONOURABLE DR.JUSTICE.S.VIMALA

C.M.A.No.1440 of 2017

and

C.M.P.No.7604 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Vazhudareddy,
Villupuram.

... Appellant/Respondent

Vs

1.Kaliyammal W/o.Sukkiri

2.Kolangiyammal W/o.Vasudevan

3.Usha D/o.Vasudevan

4.Rajkumar S/o.Vasudevan

... Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree passed by the Motor Accident Claims Tribunal, Kallakurichi (III Additional District Judge, Kallakurichi) made in MCOP No. 538 of 2012 dated 26.10.2015.

For Appellant : Mr.P.Paramasiva Doss

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the Appellant challenging the quantum of compensation.

2. One Vasudevan, the deceased aged about 35 years working as a Mason earning a sum of Rs.10,000/-p.m., died in an accident on 16.01.2009 while he was travelling in the Hero Honda along with his friend Kumar from Chennai to Kallakurichi.

3. It is alleged in the petition that the appellant's bus bearing Regn. No.TN-32-N-1823, which was driven in a rash and negligent manner dashed against the deceased, and initially

caused grievous injuries. He was admitted in Government Hospital, to succumbed to the injuries on 18.01.2009. The legal representatives of the deceased filed the claim petition, claiming a sum of Rs.12,00,000/- as compensation.

4. The tribunal after consideration of oral and documentary evidence, awarded a sum of Rs.10,51,000/- along with proportionate interest and costs. Challenging the same the Transport Corporation has filed this appeal.

5. The tribunal has relied upon the post-mortem report in order to fix the age of the deceased as 35. Making an observation that no document has been filed to prove his income and considering that the parents, wife, two daughters and son are depending upon the earnings of the deceased, the tribunal has fixed the monthly income at Rs.6500/-. Relying upon the decision of, "Santosh Devi V. National Insurance Company Ltd., and others, 2012 ACJ 1428 (SC)", the tribunal has chosen to deduct 1/4 towards his personal expenses and adopting multiplier of 16 total amount of dependency has been assessed at Rs.9,36,000/-.

5.1. Awarding a sum of Rs.25,000/- towards funeral expenses, Rs.30,000/-towards loss of consortium and Rs.25,000/-each for loss of love and affection to the 2nd, 3rd and 5th petitioners is sum of Rs.10,51,000/-has been awarded. This award is under challenge by the transport corporation.

6. The learned counsel for the appellant would submit that, in the absence of any proof for income, the tribunal is not correct in fixing the income at Rs.6,500/-p.m., and that the quantum of compensation awarded is disproportionate to the income of the deceased person. Obviously, this contention cannot be accepted for when the dependents are in large number i.e., six persons, especially the parents who are senior citizens and children who are the minors. The tribunal ought not to have deducted 1/4 and instead should have deducted only 1/5 and not ¼ towards personal expenses. Moreover the future prospective increase in income of the deceased had not been taken into account at all. When the dependents are minors, the tribunal should have awarded more amount towards loss of love and affection. With these deficiencies in the grant of compensation the contention that the amount of compensation awarded is high cannot be accepted and the appeal has no grounds and it is liable to be dismissed.

7. During the pendency of the petition, it appears that the first claimant was died and the legal representatives are already on record.

8. In the result, the appeal filed by the Transport Corporation is dismissed, confirming the award dated 26.10.2015, passed in MCOP No. 538 of 2012 by the Motor Accident Claims Tribunal, Kallakurichi (III Additional District Judge), Kallakurichi. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

msm/ksa

To

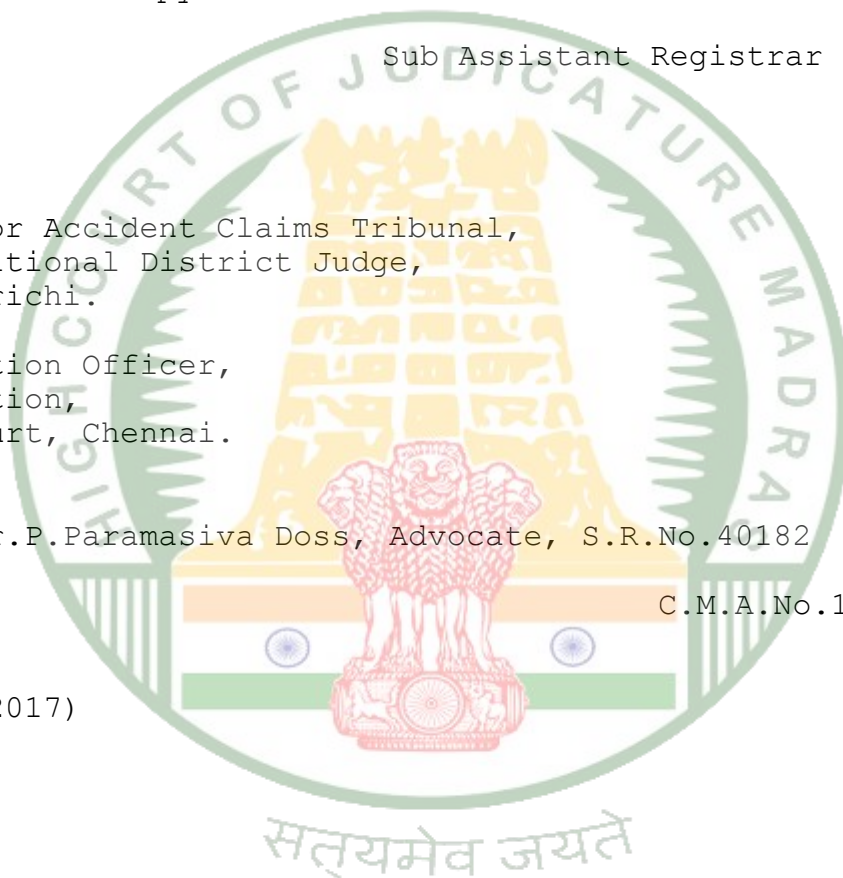
1.The Motor Accident Claims Tribunal,
III Additional District Judge,
Kallakurichi.

2.The Section Officer,
V.R.Section,
High Court, Chennai.

+1cc to Mr.P.Paramasiva Doss, Advocate, S.R.No.40182

C.M.A.No.1440 of 2017

AD(CO)
CA(28/06/2017)



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