

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.1865 of 2016

1. S.Selvi
2. Minor S.Pavithra
3. Minor S.Vinoth Kumar
(Minors and appellant Nos.2 and 3 are represented by their mother first appellant herein) ... Appellants/petitioners

versus

The Managing Director,
Tamilnadu State Transport
Corporation Ltd.,
Villupuram Division - II,
Vellore - 9. ... Respondent/Respondent

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 29.10.2007 made in M.A.C.T.O.P.No.2342 of 2003 on the file of the Motor Accident Claims Tribunal, (I Additional District Judge), Krishnagiri.

For Appellants : M/s.M.Malar
For Respondent : Mr.S.V.Vasanthakumar

JUDGMENT

In respect of death of one Swamikannu, who was aged 40 years, working as Bus Driver in respondent Transport Corporation, earning a sum of Rs.5,900/- p.m., in an accident, that took place on 21.12.2002, the wife, minor daughter and minor son of the deceased filed a claim petition before the Motor Accident Claims Tribunal, (I Additional District Judge), Krishnagiri, claiming a sum of Rs.10,00,000/- as compensation.

2. The Tribunal, after considering the oral and documentary evidence, has awarded the compensation of Rs.4,90,656/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposits. The details of the award run as under:

Loss of dependency	-	Rs.3,97,056/-
Transport to Hospital	-	Rs. 1,600/-
Damages for the articles	-	Rs. 2,000/-
Loss of consortium to wife	-	Rs. 25,000/-

Loss of love and affection to the children	-	Rs. 30,000/-
Funeral expense	-	Rs. 5,000/-
Total	-	Rs.4,90,656/-

Challenging the award amount as inadequate, the claimants have filed this appeal.

3. The learned counsel appearing for the appellants would submit that 50% towards future prospective increase in income has not been taken into account by the Tribunal. Therefore, the award has to be enhanced.

4. But, the learned counsel appearing for the respondent Transport Corporation would submit that the multiplier cannot be 16 and it can only be at 15. The proper multiplier to be adopted is 15 as rightly contended by the learned counsel for the respondent.

5. Adding 50% of future prospective increase in income and adopting multiplier of 15, the compensation on account of loss of dependency would be at Rs.10,59,120/- (Rs.5884/- + 50% (of 5884) - $\frac{1}{3}$ (towards personal expenses) x 12 x 15 (multiplier)).

6. Considering the age of the minor daughter and minor son of the deceased and also considering the fact that they have lost their father's love and affection, a sum of Rs.1,00,000/- is awarded to the 2nd and 3rd appellants, who are the minor daughter and minor son of the deceased. Loss of consortium to the wife is estimated at Rs.50,000/-. Funeral expenses is estimated at Rs.25,000/-. Total compensation is Rs.12,34,120/-.

7. In the result, this Civil Miscellaneous Appeal is allowed by enhancing the award amount from Rs.4,90,656/- to Rs.12,34,120/- along with interest at the rate of 7.5% pa. from the date of petition till the date of deposits (less the interest for the default period, if any).

8. The Transport Corporation is directed to deposit the entire amount of compensation, less the amount already deposited if any, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit (less the interest for the default period if any), within a period of four weeks, from the date of receipt of a copy of this Judgment. On such deposit, the first claimant is permitted to withdraw her share amount as per the ratio of apportionment made by the Tribunal. The minors' share shall be deposited in fixed scheme in any one of the Nationalized Bank for a period of three years, till they

attain majority. The mother of the minor is permitted to withdraw the interest accrued thereon, once in three months. The claimants shall pay the court fee due, if any. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

ogy

To

1. The Motor Accident Claims Tribunal,
(I Additional District Judge), Krishnagiri.

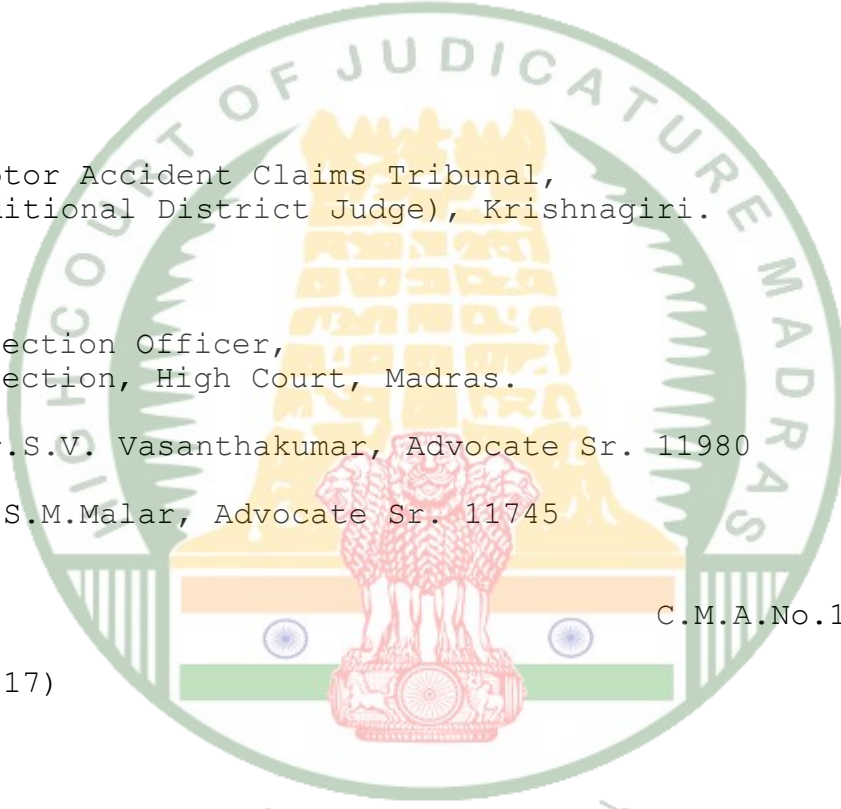
Copy to:
The Section Officer,
V.R.Section, High Court, Madras.

+1cc to Mr.S.V. Vasanthakumar, Advocate Sr. 11980

+1cc to M/S.M.Malar, Advocate Sr. 11745

SAI (CO)
VR(19/5/2017)

C.M.A.No.1865 of 2016



सत्यमेव जयते

WEB COPY