

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 12.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

**C.M.A. Nos.1737 of 2015 and 108 of 2016
and
CMP.Nos.15543 of 2016 15544 and 1041 of 2016**

C.M.A.No.1737 of 2015

1.A.Sasirekha

2.M.Ananda Nayagam

...

Appellants

versus

Tamil Nadu State Transport Corporation (VPM),
Limited, Rep. By its Managing Director,
Tondiarpet, Chennai – 81.

...

Respondent

Prayer: Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree passed in M.C.O.P.No.4019 of 2013 dated 13.02.2015, on the file of the Motor Accidents Claim Tribunal, Chief Judge Small Causes Court, Chennai.

For Appellants : UM.Ravichandran

For respondents : Mr.P.Paramasivados

C.M.A.No.108 of 2016

Tamil Nadu State Transport Corporation (VPM),
Limited, Rep. By its Managing Director,
Tondiarpet, Chennai – 81.

...

Appellant

Versus

1.A.Sasirekha,

2.M.Ananda Nayagam

...

Respondents

Prayer: Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree passed in M.C.O.P.No.4019 of 2013 dated 13.02.2015, on the file of the Motor Accidents Claim Tribunal, Chief Judge Small Causes Court, Chennai.

For Appellants : Mr.UM.Ravichandran in CMA 1737/15
Mr. P.Paramasivadoss in CMA 108/2016

For respondents : Mr.P.Paramasivadoss in CMA 1737/15
Mr.UM.Ravichandran in CMA 108/16

COMMON JUDGMENT

The deceased A.Aravind, aged 19 years, **earning a sum of Rs.800/- per day**, died in an accident that took place on 30.12.2012. The parents of the deceased filed a claim petition in M.C.O.P.No.4019 of 2013, seeking compensation in a sum of Rs.25,00,000/-. The Tribunal has quantified the compensation at Rs.7,28,000/- along with interest @ 7.5% per annum from the date of petition till the date of deposit. The break-up details of the same are as under:

Loss of pecuniary benefits (3000x12x18)	-	Rs.6,48,000/-
Loss of love and affection (Rs.25,000/- to each petitioners)	-	Rs. 50,000/-
Funeral expenses	-	Rs, 25,000/-

Transport expenses	-	Rs. 5,000/-

		Rs. 7,28,000/-

2. While challenging the said compensation as inadequate the claimants have filed the Appeal in C.M.A.No.1737 of 2015, the appellant/Transport Corporation, terming the compensation as excessive, has filed C.MA.No.108 of 2016.

3. The contention of the learned counsel appearing for the Transport corporation is that there is no evidence on record to prove that the deceased was earning a sum of Rs.800/- per day and the monthly income fixed by the Tribunal at Rs.6,500/- is arbitrary and highly excessive.

4. On the other hand, the learned counsel for the claimants submitted that the future prospects has not been taken into consideration by the Tribunal. It is the further submission of the learned counsel for the claimants that the Tribunal ought to have awarded a sum of Rs.1,00,000/- each of the claimants towards loss of love and affection. He has also submitted that the funeral expenses awarded by the Tribunal is very low.

5. A perusal of the order passed by the Tribunal reveals that no documentary evidence has been produced before the Court to substantiate the claim of earnings. However, oral evidence has been adduced by the claimant to the effect that the deceased was working under him on the civil contract side. The Tribunal, taking into consideration the fact that the deceased was working and that he was the main

breadwinner for the family and also the cost of living index during the period in question as also the wages given to the labour in civil contract works during the year 2012, had fixed the monthly earning of the deceased at Rs.6,500/=. However, this Court, fixes the monthly income of the deceased at Rs.6,000/=.

6. As rightly pointed out by the learned counsel appearing for the claimants, the Tribunal has not considered the future prospects of the deceased. Had the deceased lived his life without this untimely event happening, he would definitely have earned more. In that view of the matter, this Court is of the view that 50% of the earnings now fixed by this Court would be a reasonable amount to be fixed as future prospects of the deceased. Accordingly, the monthly earnings of the deceased could safely be fixed at Rs.9000/= (Rs.6000 + Rs.3000).

3. Even according to the claimants, they are dependent on the deceased. From the sum of Rs.9,000/=: which is fixed as monthly income, deducting one-half towards the personal expenses of the deceased, the contribution of the deceased to the family could be safely fixed at Rs.4,500/= per month. The deceased being aged 18 years on the date of death, the multiplier to be adopted is 18. Accordingly, adopting the multiplier 18, the 'loss of earnings' could be arrived at Rs.9,72,000/- (4500x12x18).

4. As rightly contended by the learned counsel for the claimants, the amount awarded under the head "love and affection" at Rs.50,000/= each to the claimants is on the lower side. The deceased was aged only 18 on the date of the fatal accident. In such view of the matter, this Court feels that a sum of Rs.1,00,000/=

each be awarded to the claimants under the head “loss of love & affection”. The amount awarded towards funeral expenses is reduced to Rs.20,000/- and the compensation awarded towards transport charges is confirmed.

6. In the result, while C.M.A. No.108 of 2016 filed by the Transport Corporation stands dismissed. C.M.A. No.1737 of 2015, filed by the claimants stands modified in the terms ordered above. Accordingly, the compensation awarded by the Tribunal is enhanced from Rs.7,28,000/- to Rs.11,97,000/-, which shall carry interest @ 7.5% per annum from the date of petition till the date of deposit. The Transport Corporation is directed to deposit the award amount along with accrued interest within a period of six weeks from the date of receipt of a copy of this order and on such deposit being made, the claimants are permitted to withdraw. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.01.2017

Index : Yes/No

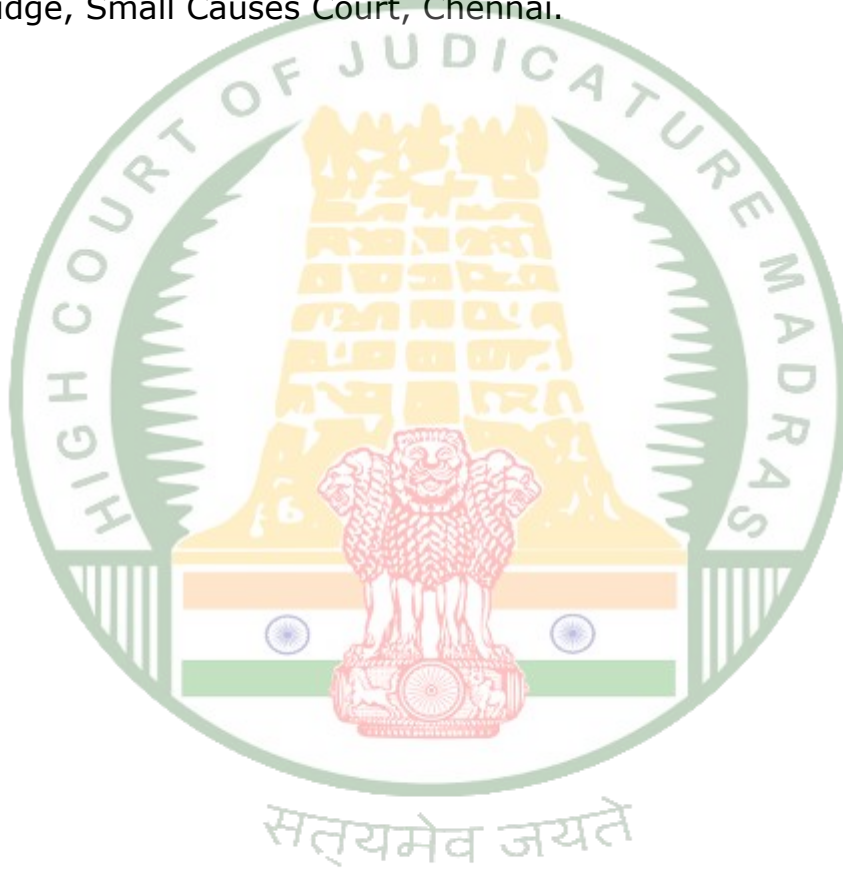
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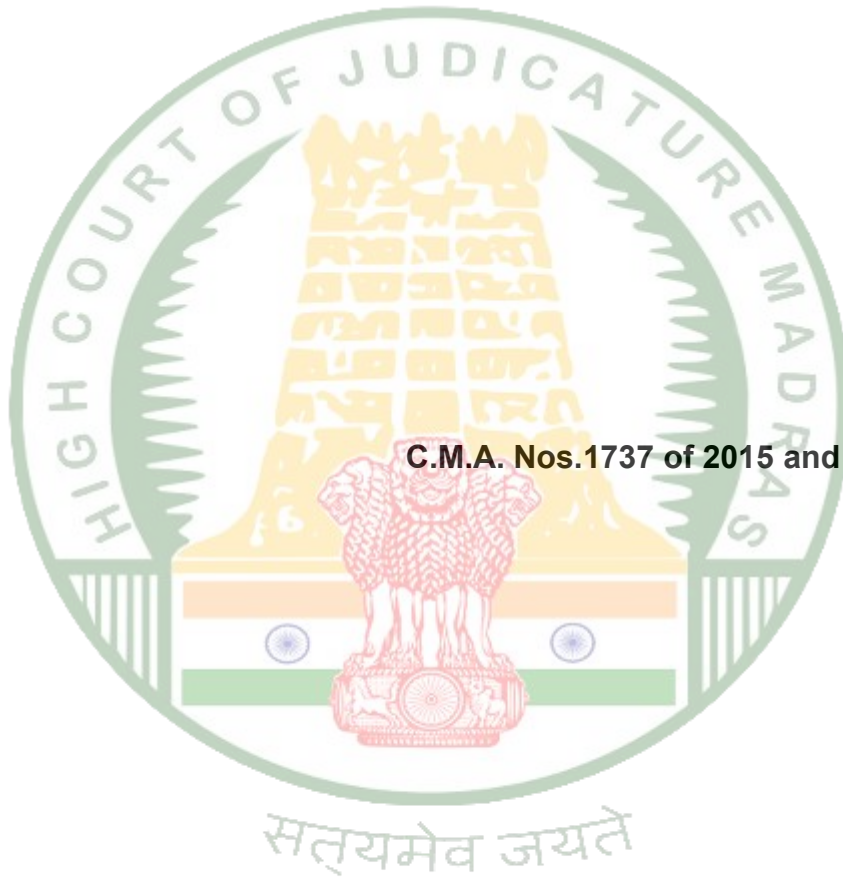
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DR.S.VIMALA,J.

Arr/GLN



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