

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2017

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THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.1820 of 2017

and

C.M.P.No.9742 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram. ... Appellant/Respondent

/Vs/

1.Ezhumalai
2.Saroja
3.E.Murugan ... Respondents/Petitioners

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 14.08.2014 made in M.C.O.P.No.83 of 2010 on the file of the Motor Accident Claims Tribunal, The Subordinate Court, Chidambaram.

For Appellant : Mr.K.J.Sivakumar

JUDGMENT

The appeal is filed by the Transport Corporation, challenging the quantum of compensation as excessive.

2. Heard the learned counsel appearing for the appellant.

3. The deceased Arunagiri S/o.Ezhumalai, aged 29 years, an Electrician, earning a sum of Rs.6,000/- per month, died in an accident that took place on 08.11.2009. Originally, he sustained Head injuries and took treatment from 08.11.2009 to 09.11.2009 and thereafter, he died.

4. The legal representatives, father, mother and brother of the deceased, claimed a sum of Rs.10,00,000/- as compensation in a petition filed before the Motor Accident Claims Tribunal, Chidambaram, in M.C.O.P.No.83 of 2010. The Tribunal, on consideration of materials placed before it, quantified the compensation at Rs.9,24,000/- under the following breakup details:

4.1. Relying upon the postmortem certificate, the age of the deceased has been taken as 29 years and fixing the monthly income at Rs.6,000/-, total loss of income has been calculated at Rs.12,96,000/- (Rs.6,000/- x 12 x 18 = 12,96,000/-), after deducting 1/3rd towards "personal expenses", the balance of Rs.8,64,000/- is taken as loss of dependency. Cremation expenses has been awarded at Rs.10,000/-, Transport expenses has been awarded at Rs.5,000/-. Each of the claimants has been awarded a sum of Rs.15,000/- towards loss of love and affection and a total sum of Rs.9,24,000/- has been awarded by the Tribunal.

5. The learned counsel for the appellant would point out that in the case of death of a bachelor, the deduction is only 50% and not 1/3rd and therefore, the award requires proportionate reduction.

6. It is also pointed out that in respect of 29 years of the deceased, the appropriate multiplier is 17 and not 18.

7. This contention is well founded and it is also well-settled principle of law. When the monthly income has been taken as Rs.6,000/- and when the age of the deceased is 29 years, the future prospective increase in income at 50% ought to have been added by the Claims Tribunal and that has not been done. If that is taken into account, the deduction of 1/3rd and the non application of appropriate multiplier would stand set off.

8. Under such circumstances, the compensation awarded by the Tribunal cannot be said to be excessive and unreasonable. Therefore, the appeal is dismissed confirming the award passed by the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

9. The appellant/Transport Corporation is directed to deposit the entire award amount, along with accrued interest, after deducting the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer their respective shares directly to the bank accounts of the Respondents / Claimants

through RTGS within a period of two weeks thereafter, less the amount already withdrawn, if any, by the claimants.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

kv/sms

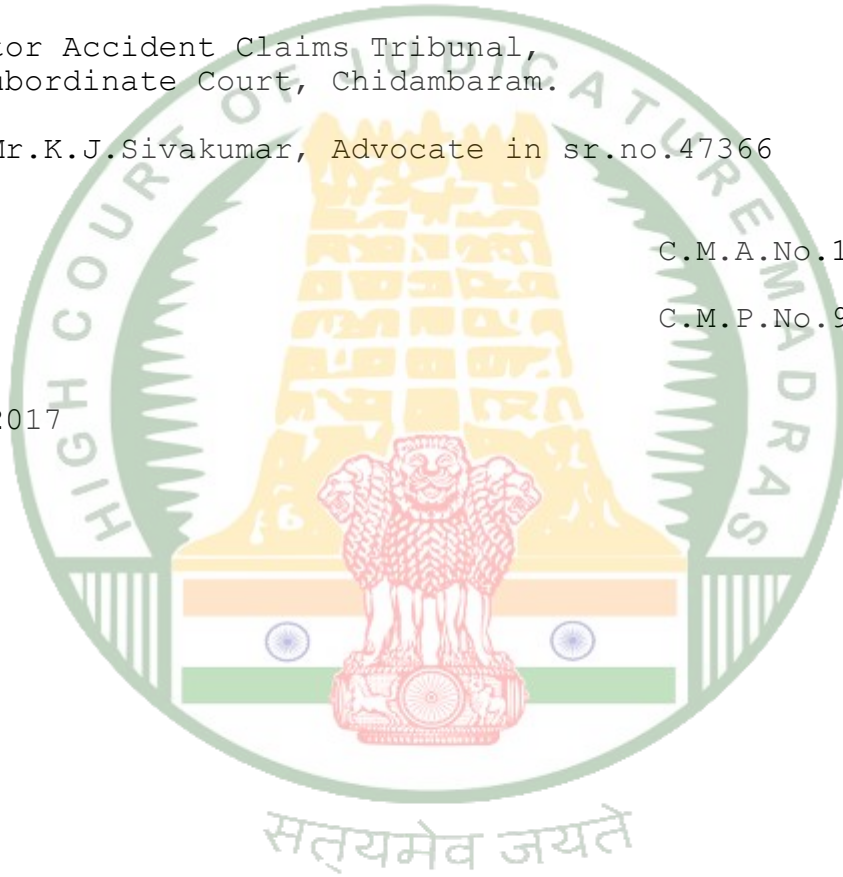
To

1. The Motor Accident Claims Tribunal,
The Subordinate Court, Chidambaram.

+1cc to Mr.K.J.Sivakumar, Advocate in sr.no.47366

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SS (CO)
NR 06/11/2017



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