

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 25.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.244 of 2017 &
CMP.No.1567 of 2017

The Managing Director,
Tamilnadu State Transport Corporation Division-II,
Chennimalai road,
Erode. ..Appellant/2nd Respondent

Versus

1. Mallika
- 2.Vellakutti ..Respondents Nos.1 & 2/
Petitioner 1 & 2
- 3.Arokkiasamy ..Respondent No.3/1st Respondent

Prayer:Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the order and Decree dated 04.03.2016 made in M.C.O.P.No.140 of 2014 on the file of the Motor Accident Claims Tribunal, The Subordinate Judge, Perundurai.

For appellant : Mr.K.J.Sivakumar

J U D G M E N T

Challenging the negligence as well as quantum of compensation awarded by the Tribunal, the Transport Corporation has filed this Civil Miscellaneous Appeal.

2. The deceased Vimal Raj, aged 24 years, a Lorry Mechanic, earning a sum of Rs.10,000/- per month, died in an accident that occurred on 26.10.2010. The parents of the deceased filed a Claim Petition in M.C.O.P.No.140 of 2014, seeking compensation in a sum of Rs.15,00,000/-. The Claims Tribunal on consideration of oral and documentary evidence awarded a sum of Rs.7,05,000/- as compensation, the break-up details of which are as under:

Loss of earnings	-	Rs.6,75,000/-
Funeral expenses	-	Rs. 10,000/-
Love and affection	-	Rs. 20,000/-

Total		Rs.7,05,000/-

3. The learned counsel for the appellant submits that the Tribunal, ought not to have fixed the negligence on the part of the driver of the Transport Corporation alone. It is his further submission that the quantum of compensation awarded by the Claims Tribunal is very high and the same needs to be reduced.

4. Insofar as the contention relating to negligence is concerned, P.W.2 is stated to be an eye witness to the occurrence. P.W.2 has spoken about the accident and has further went on to state that the bus belonging to the appellant, driven in a rash and negligent manner came and hit against the deceased and that the bus ran over the deceased. It is further seen from the order of the Tribunal that no cross examination questioning the presence of P.W.2 was put forth. Considering the overall oral evidence coupled with the documentary evidence in the form of FIR, the Tribunal has fixed the negligence on the driver of the appellant. No material supporting the version of the appellant is placed before this Court to come to a different conclusion. Therefore, the submission relating to fixation of negligence is liable to be rejected and accordingly the same is rejected.

5. Insofar as the contention relating to quantum of compensation is concerned, a perusal of the award passed by the Claims Tribunal would reveal that though claim was made that the claimant was earning a sum of Rs.10,000/- per month, the Tribunal has conservatively fixed the income of the deceased at Rs.7,500/- per month and after deducting 50% towards personal expenses and by adopting multiplier 15 has quantified the compensation in a sum of Rs.6,75,000/- under the head Loss of earnings. The said compensation, cannot in any way be said to be unreasonable or unjustified. Considering the avocation of the deceased, it is reasonable that the deceased would have earned the amount fixed by the Tribunal. Similarly, the amount awarded under the other heads also cannot be termed to be excessive or unreasonable and, therefore, the award does not call for any interference.

6. In view of the same, this Civil Miscellaneous Appeal is dismissed, confirming the Judgment and Decree of the Claims Tribunal in M.C.O.P.No.140 of 2014 on the file of the Motor Accident Claims Tribunal, The Subordinate Judge, Perundurai. No costs. Consequently, connected Miscellaneous Petition is closed.

7. The appellant is directed to deposit the award amount, along with interest, less the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy

of this order. On such deposit being made, the Tribunal is directed to transfer the amount as apportioned by it and ordered to be paid directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CCC)

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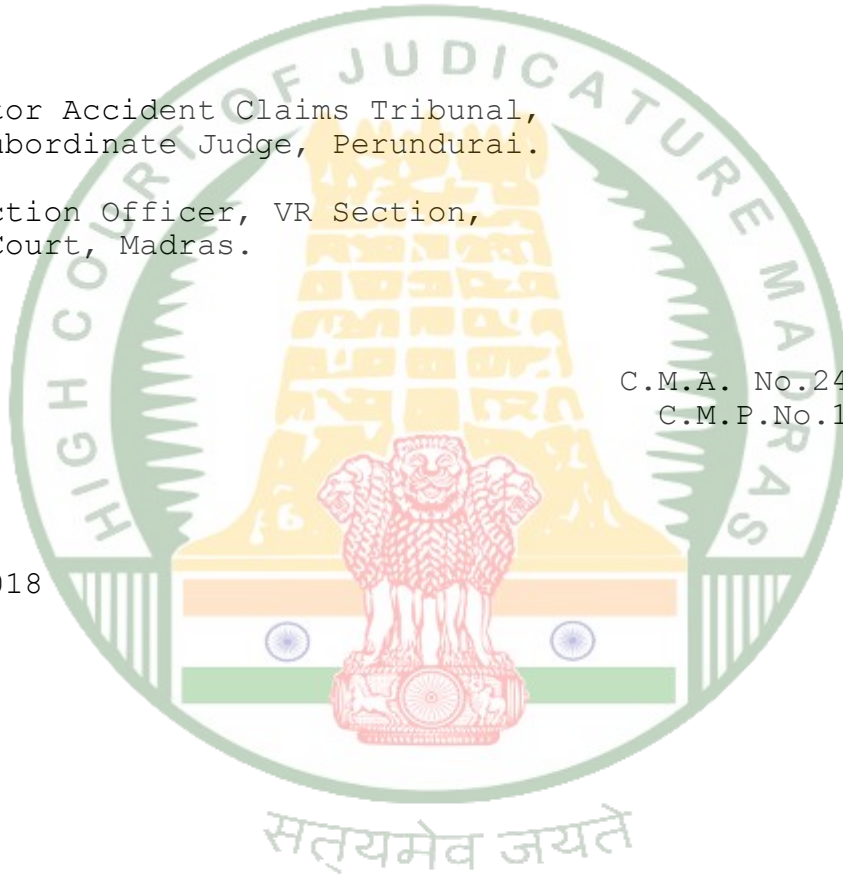
Sub Assistant Registrar

arr/GLN
To

- 1.The Motor Accident Claims Tribunal,
The Subordinate Judge, Perundurai.
2. The Section Officer, VR Section,
High Court, Madras.

C.M.A. No.244 of 2017 &
C.M.P.No.1567 of 2017

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