

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2017

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THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2467 of 2017

and

C.M.P.No.13487 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division III, Chennai to Bangalore Higy ways road,
Ponnerikarai, Karai Village & Post,
Kancheepuram Taluk. .. Appellant

/Vs/

1. J.Vijayalakshmi
2.M.Janagiraman .. Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 23.02.2016 made in M.C.O.P.No.141 of 2014 on the file of the Motor Accident Claims Tribunal, Chennai (District Judge, District Court-II), Kanchipuram.

For Appellant : Mr.Paramasiva Doss

For Respondents : Mr.C.Prabakaran

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JUDGMENT

The parents of the deceased J.Arvinth filed a claim petition for compensation in respect of death of their son. The deceased was aged 16 years, studying 10th std., likely to earn a sum of Rs.9,000/- per month in future, died in an accident on 05.12.2013.

2. The Tribunal, on consideration of material, has passed an order for a sum of Rs.8,40,000/- and challenging the quantum of compensation as excessive, the transport corporation has filed this appeal.

3. The learned counsel appearing for the appellant would submit that the quantum awarded is excessive on two grounds;

1. The monthly salary should have been fixed only at Rs.3,000/- but not at Rs.5,000/-

2. The deduction at the rate of 1/3 is bad in eye of law and as per reported judgment of the Hon'ble Supreme Court in Sarala Verma Vs. DTC, deduction should have been made at 50%.

4. In order to appreciate the contention raised by the learned counsel for the appellant, it is necessary to look into the details of the award passed by the Tribunal;

4.1. Fixing the monthly salary of the deceased at Rs.5,000/-, deducting 1/3 towards personal expenses i.e. Rs.1667/-, the monthly dependency has been fixed at Rs.3333/-, and by adopting multiplier of 18, loss of dependency has been calculated at Rs.7,20,000/-.

5. The tribunal has made an observation that the deceased is a bachelor but has ordered deduction of 1/3 towards personal expenses. The question to be answered is that when the deceased is a bachelor, whether deduction of 1/3 is permissible.

6. When the deceased is a bachelor, and when the parents alone are the claimants, the deduction ought to have been only at 50%. But the fact remains that future prospective increase in income has not been considered. If that is considered, the deduction made at 1/3 would not bring a major difference.

6.1. The compensation awarded under the various heads i.e. for Loss of love and affection to the parents at Rs.1,00,000/-, Funeral and Transport expenses together at Rs.20,000/- are reasonable and the total compensation has been arrived at Rs.8,40,000/- is just.

7. Next contention is that with regard to the monthly income fixed at Rs.5,000/- per month It is not a case where the deceased is an infant, where the survival would be a doubtful question and consequently, the possibility of expectation of pecuniary benefit in future. It is a case that the deceased had been studying at 10th std., and there is fair possibility of the deceased completing his studies and earning a huge amount of money in future.

8. Therefore, in a case of student, who is aged 16 years, fixing of the income at Rs.5,000/- , based upon the notional income cannot be said to be excessive.

9. Therefore, the monthly income fixed is reasonable. There is no ground to interfere with the award passed by the tribunal. Hence, the appeal has no merits and the same is dismissed. No costs. Consequently connected miscellaneous petition is closed.

10. The appellant/Transport Corporation is directed to deposit the entire award amount, along with interest at 7.5% per annum from the date of petition till the date of deposit, as determined by Tribunal, less the amount already deposited, if any, before the Tribunal, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount along with proportionate interests, directly to the bank account of the respondents /claimants through RTGS, as per proportion fixed by the Tribunal, within a period of two weeks thereafter.

29.08.2017

Index : Yes/No
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Note: Issue order copy on 29.08.2017

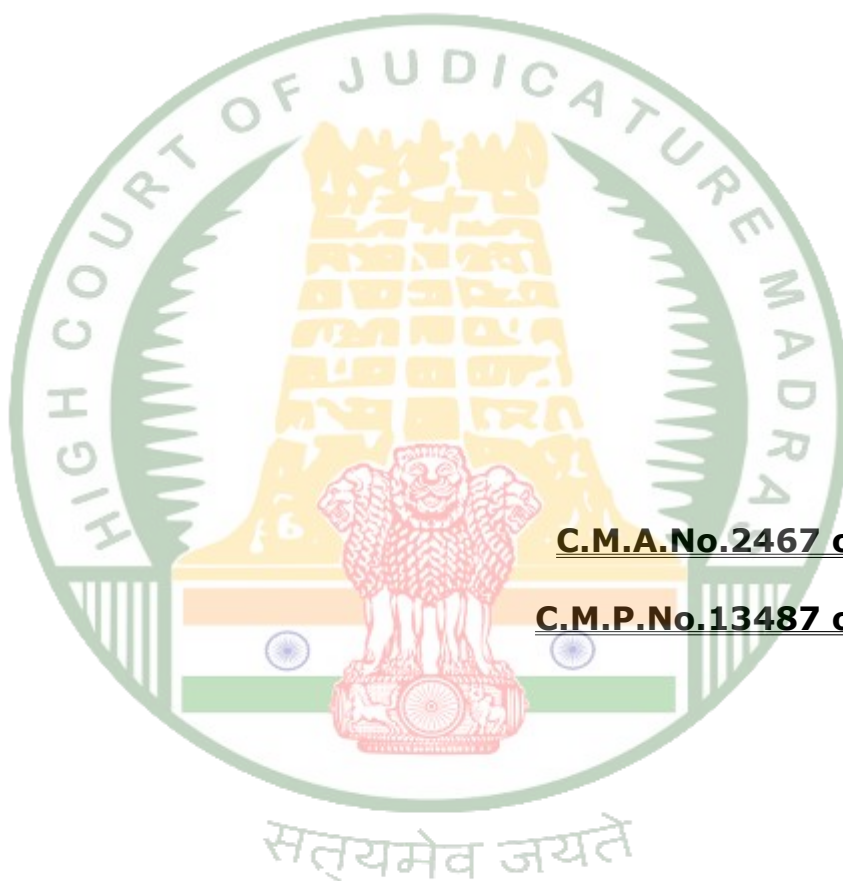
To

1.The Motor Accident Claims Tribunal,
Chennai (District Judge, District Court-II),
Kanchipuram.

2. The Section Officer, VR Section,
High Court, Madras.

S.VIMALA,J.

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