

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.2806 of 2017
and C.M.P.No.16019 of 2017

The Managing Director,
Tamil Nadu State Transport corporation
(VPM) Limited,
No.3/137 Salamedu,
Vazhudhareddy Post,
Villupuram 605 602 ..Appellant/Respondent

..vs..

1. S.Geethavathy
2. R.Shyamaladevi
3. S.Senthil Kumar
4. S.Umadevi ..Respondents/Petitioners/claimants

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 11.07.2016 made in M.C.O.P.No.3463 of 2011 on the file of the Motor Accident Claims Tribunal, V Small Causes Court, Chennai.

For Appellant : Mr. K.J.Sivakumar
For Respondents: Mr. K.Varadha Kamaraj

J U D G M E N T

As against the claim made for a sum of Rs.8,00,000/- by the claimants, the Tribunal has passed an award for a sum of Rs.9,33,000/-. Challenging the award as disproportionate and excessive, the Transport Corporation has filed this Appeal.

2. The first claimant as the wife, second and fourth claimants as daughters and the third claimant as the son of the deceased K.Samraj, have filed the claim petition before the Motor Accident Claims Tribunal, Chennai, in M.C.O.P.No.3463 of 2011.

2.1. The deceased K.Samraj, aged 58, Checking Inspector at MTC and after retirement, worked in Sweet Stall, earning a sum of Rs.500/- per day, met with a fatal accident on 24.03.2011 and in respect of the same, the Legal Representatives have filed the claim petition.

3. The Tribunal has quantified the compensation as per the details furnished below:-

Transportation	-	Rs. 10,000/-
Loss of contribution to the family	-	Rs.6,48,000/-
Loss of love and affection	-	Rs.2,00,000/-
Loss of consortium	-	Rs. 50,000/-
Funeral expenses	-	Rs. 25,000/-

Total	-	Rs.9,33,000/-

4. While calculating the loss of dependency, the Tribunal has taken the monthly income of the deceased at Rs.9,000/-, deducting 1/3rd towards the personal expenses, the loss of dependency has been quantified, per year, at Rs.72,000/- and adopting the multiplier of '9', the loss of dependency has been quantified at Rs.6,48,000/-. Awarding Rs.10,000/- towards transport expenses, Rs.2,00,000/- towards loss of love affection, Rs.50,000/- towards loss of consortium, Rs.25,000/- towards funeral expenses, the total amount of compensation has been quantified at Rs.9,33,000/-.

5. The learned counsel appearing for the appellant / Transport corporation would submit that, fixing of monthly income at Rs.9,000/- per month is excessive.

6. The fact remains that the deceased had been employed as Checking Inspector at MTC and after retirement, it is alleged that he was employed in Sweet Stall. There is nothing strange that, after retirement, those who are workaholic, used to go for some job, without sitting idle in home.

7. In such circumstances, the contention that the deceased had been working in a private concern, after retirement, cannot be ruled out. However the Tribunal has taken only the modest estimate of Rs.9,000/- per month. Therefore, at any rate, the award of compensation cannot be said to be excessive.

8. It is contended that the Tribunal is so generous in awarding compensation which is more than the claim made.

8.1. This contention cannot be accepted, as the Tribunal is duty bound to award just compensation and the award need not depend upon the claim made.

9. The Appeal, filed by the Transport Corporation, has no meritorious grounds. Thus, the Civil Miscellaneous Appeal is dismissed. No costs.

10. The appellant / Transport Corporation is directed to deposit the amount of compensation, as awarded by the Tribunal, along with interest at 7.5% per annum, from the date of petition till the date of deposit, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being

made, the claimants / respondents are permitted to withdraw the amount, as per the ratio of apportionment made by the Claims Tribunal. Consequently, the connected CMP is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

srk

To

1. Motor Accident Claims Tribunal,
V Small Causes Court, Chennai.

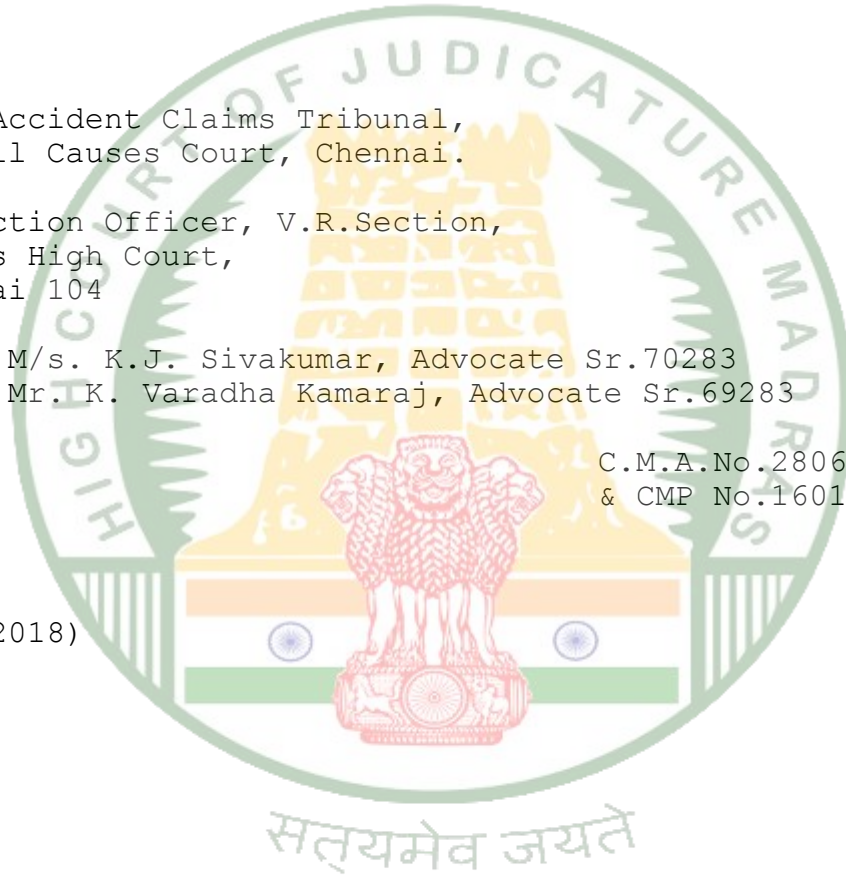
2. The Section Officer, V.R.Section,
Madras High Court,
Chennai 104

+ 1 cc to M/s. K.J. Sivakumar, Advocate Sr.70283

+ 1 cc to Mr.K. Varadha Kamaraj, Advocate Sr.69283

C.M.A.No.2806 of 2017
& CMP No.16019 of 2017

RJI (CO)
EU(14/05/2018)



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