

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.02.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.438 of 2017

and

CMP.No.2963 of 2017

The Managing Director
Tamilnadu State Transport Corporation,
Salem Division-II, Erode. ... Appellant/Respondent

versus

1. Krishnan
2. Saroja ... Respondents/Petitioners

Appeal filed under Section 173 of the Motor Vehicles Act, 1989 against the Judgment and Decree passed in M.C.O.P.No.63 of 2011 dated 24.03.2014 on the file of Motor Accident Claims Tribunal, Sub Court, Harur.

For appellant : M/s.R.T.Sundari

J U D G M E N T

Challenging the finding on negligence as well as quantum of compensation awarded by the Tribunal in M.C.O.P.No.63 of 2011, the Transport Corporation has preferred this appeal.

2. One Mr. Megavani, aged 24 years, who was working as a quality control checking officer, in Sreeja Hosiaries Pvt. Ltd., earning a sum of Rs.20,000/- per month died due to the accident that occurred on 31.07.2011. Hence, her parents have filed a claim petition in M.C.O.P.No.63 of 2011, seeking compensation for a sum of Rs.22,00,000/-. The Claims Tribunal on consideration of oral and documentary evidence has awarded compensation at Rs.10,20,600/- with interest @ 7.5% from the date of petition till the date of realization. The break-up details of the same are as under:

Loss of dependency	-	Rs.10,20,600/-
Love and affection	-	Rs. 20,000/-
Ambulance	-	Rs. 3,000/-
Funeral	-	Rs. 5,000/-

<https://hcservices.ecourts.gov.in/hcservices/>

Rs.10,48,600/-

Total

3. The learned counsel for the appellant would submit that the Claims Tribunal has fixed the income of the deceased at Rs.9,450/-, which is on the higher side. He would further submit that the Tribunal has wrongly fixed the multiplier as 18 instead of 17. He further added that the compensation awarded by the Claims Tribunal is high and the same needs to be reduced.

4. A perusal of the award passed by the Claims Tribunal would go to show that the Claims Tribunal on considering Ex.P1-F.I.R., Ex.P4-Charge sheet and Ex.P6- Motor Vehicle Inspector's report has rightly fixed the negligence on the part of the driver of the appellant Corporation. It is relevant to point out that the allegation of rash and negligent driving has been made as against the driver, but the appellant has chosen to examine the conductor as the witness but not the driver. The non examination of the driver would speak volume about the rash and negligent driving on the part of the driver and therefore the tribunal is right in relying upon the evidence of the petitioner and his witnessess in coming to the conclusion that the driver of the appellant Corporation is responsible for the accident.

5. As far as quantum is concerned, the claims Tribunal on considering the age, Educational qualification and salary of the deceased and also considering the documents produced such as Ex.P9- Salary certificate, Ex.P7 and Ex.P8- Educational certificates and mark sheet respectively and also considering the dictum laid down by the Hon'ble Apex Court in Sarlaverma and others Versus Delhi Transport Corporation and another reported in 2009 (6) SCC Page 121 has rightly fixed the monthly income of the deceased at Rs.9,450/- per month and by deducing 50% towards personal expenses and by adopting multiplier 18 has awarded a sum of Rs.10,20,600/- (1,13,400-56700 x18) which is not excessive.

6. So far as multiplier is concerned, when the deceased is aged 24, the appropriate multiplier is 18. Moreover, the award under Loss of love and affection and funeral expenses is extremely low.

7. A sum of Rs. 3,000/- awarded towards Ambulance and Rs.5,000/- towards funeral expenses are reasonable and the same need not be interfered with.

8. In the result, this Appeal has no merits and the same stands dismissed, confirming the award Judgment and decree of the Claims Tribunal in M.C.O.P.No.63 of 2011, dated 24.03.2014. The Transport Corporation is directed to deposit the entire

compensation awarded by the Tribunal, less the amount already deposited, if any along with interest @ 7.5% per annum from the date of petition till the date of deposit, within a period of six weeks from the date of receipt of a copy of this Judgment.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

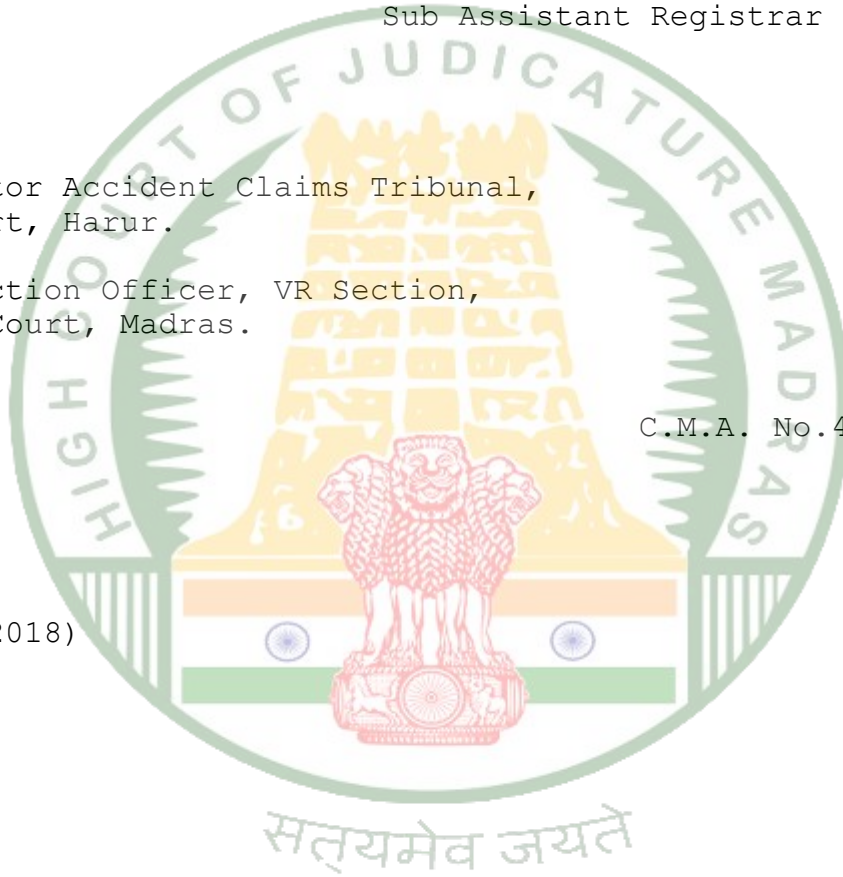
arr/srk

To

- 1.The Motor Accident Claims Tribunal,
Sub Court, Harur.
2. The Section Officer, VR Section,
High Court, Madras.

C.M.A. No.438 of 2017

RJ(CO)
EU(29/01/2018)



WEB COPY