

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2017

CORAM:

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.444 of 2017  
and C.M.P.No.2987 of 2017

The Managing Director,  
Tamil Nadu State Transport  
Corporation Limited,  
Division III,  
No.1, 2, Sheikpet, Nadu Street,  
Kanchipuram.

... Appellant / Respondent

versus

1. R.Lisy  
2. R.Thangammal  
3. T.Rajendiran

... Respondents/Claimants

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 09.01.2013 made in M.C.O.P.No.674 of 2009 on the file of the Motor Accident Claims Tribunal (Subordinate Judge), Kanchipuram.

For Appellant : Mr. K.J.Sivakumar

JUDGMENT

One R.Rajavel, who was aged about 27 years, working as Supervisor in a Crusher Company, earning a sum of Rs.4000/- per month, met with an accident that took place on 22.06.2009 and sustained injuries, due to which, he died in the Hospital. Hence, the wife and parents of the deceased filed a claim petition before the Motor Accident Claims Tribunal (Subordinate Judge), Kanchipuram, claiming compensation of Rs.23,30,000/- and it was restricted to Rs.9,00,000/-.

1.1. As against the claim made, the Tribunal has awarded a sum of Rs.7,53,000/- along with interest at 7.5% p.a. from the date of petition till the date of deposit. The break-up details

of the compensation read as under:

|                                          |   |                      |
|------------------------------------------|---|----------------------|
| Pecuniary Loss<br>(Rs.3,000/- x 12 x 18) | - | Rs.6,48,000/-        |
| Funeral expenses                         | - | Rs. 20,000/-         |
| Loss of love and affection               | - | Rs. 25,000/-         |
| Loss of consortium                       | - | Rs. 50,000/-         |
| Transport Expenses                       | - | Rs. 10,000/-         |
| Total                                    | - | <u>Rs.7,53,000/-</u> |

Challenging the award as excessive, the Transport Corporation has filed this Civil Miscellaneous Appeal.

2. The learned counsel appearing for the Transport Corporation submitted that even though the claimants have not filed any valid documents to prove the age and income of the deceased, the Tribunal has fixed the income of the deceased at Rs.4,500/- per month and adopted the multiplier of 18, while computing the compensation towards 'pecuniary loss' and awarded a sum of Rs.6,48,000/-, which is exorbitant and disproportionate. Hence, the award amount has to be reduced. This contention is not correct as the claimant have examined P.W.3, the Proprietor of the crusher company, to prove the salary of the deceased. Ex.P5-Salary certificate would show that the monthly earnings was Rs.10,000/-. Despite the oral and documentary evidence available, the Tribunal did not take the monthly income at Rs.10,000/- and has fixed the notional income of the deceased at Rs.4,500/- as per the Judgment in 2012 ACJ 1375. Therefore, the contention that monthly income fixed is higher, cannot be accepted.

3. Considering the age of the deceased, the appropriate multiplier has been used. Moreover, the future prospective increase in income of the deceased has not been considered at all. Therefore, in any event, the quantum of compensation awarded cannot be said to be excessive.

4. Hence, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 09.01.2013 made in M.C.O.P.No.674 of 2009 on the file of the Motor Accident Claims Tribunal (Subordinate Judge), Kanchipuram.

5. The appellant Transport Corporation is directed to deposit the award amount along with interest at the rate of 7.5% p.a. 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 are permitted to withdraw their share of the amount as per the ratio of the apportionment made by the Tribunal, less the amount already withdrawn if any. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS II)

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Sub Assistant Registrar

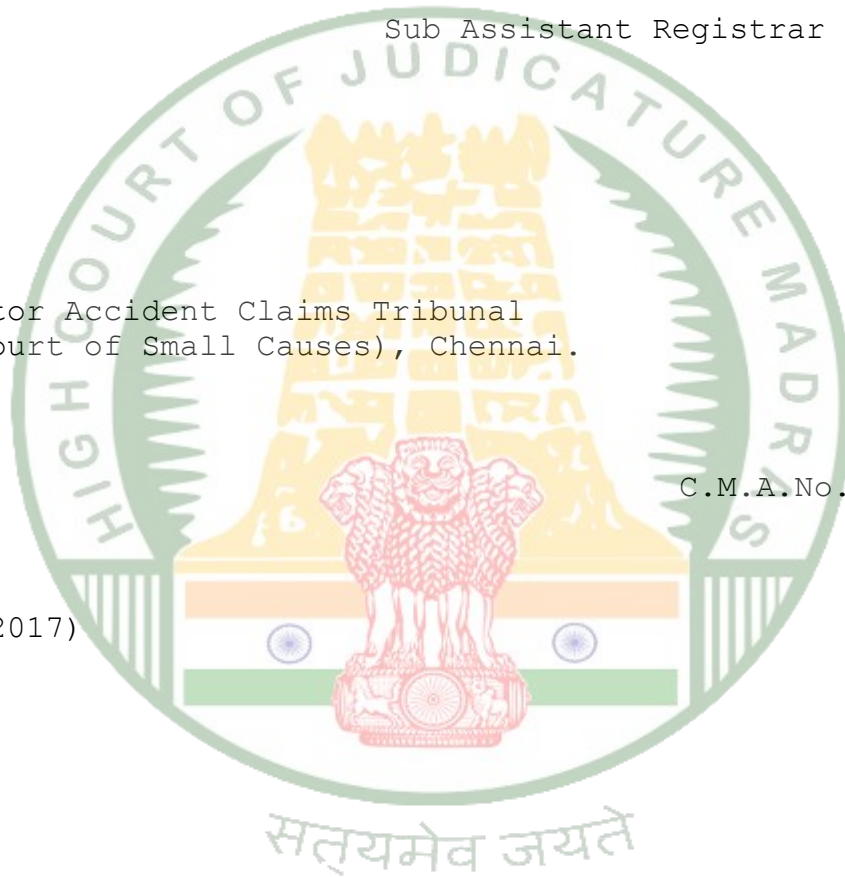
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To

1. The Motor Accident Claims Tribunal  
(III Court of Small Causes), Chennai.

C.M.A.No.444 of 2017

PPA (CO)  
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