

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 03.02.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.482 of 2017

&

C.M.P.No.3183 of 2017

State Express Transport Corporation,
rep.by its Managing Director, Chennai.

.. Appellant/Respondent

Versus

1. Kanniyabai
2. Haridas
3. Subbulakshmi

.. Respondents/Claimant

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 19.01.2004 made in M.C.O.P.No.40/2002 on the file of Motor Accident Claims Tribunal Fast Track Court - I, Chengleput.

For appellant : Mr.V.Udayakumar

J U D G M E N T

Challenging the quantum of compensation awarded by the Claims Tribunal in M.C.O.P.No.40 of 2002, dated 19.01.2004, the Transport Corporation has filed this Appeal.

2. The deceased one Devarajalu aged 41 years, an NMR in PWD as well as an agriculturist, who was earning a sum of Rs. 2,000/- per month as a NMR and earning Rs.4,000/- per month as a farmer, died in an accident on 05.02.2001. Hence, his wife, son and mother filed a claim petition, in M.C.O.P.No.40 of 2002, seeking compensation for a sum of Rs.4,00,000/-. The Claims Tribunal, on consideration of oral and documentary evidence has awarded compensation at Rs. 1,92,500/- (Rupees One Lakh Ninety Two Thousand Five Hundred Only), with interest @ 9% from the date of petition till the date of deposit. The break up details of the same is as follows:

Loss of earnings	-	Rs.1,75,500/-
(1125x12x13)		

Loss of consortium	-	Rs.	15,000/-
Funeral expenses	-	Rs.	2,000/-
Rs.1,92,500/-			

3. The learned counsel for the appellant would submit that the compensation awarded by the Tribunal is very 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 had fixed the monthly income of the deceased at Rs.1,500/-, and by deducting 1/4th towards personal expenses, taken a sum of Rs.1,125/- as monthly income. The Tribunal, considering the age of the deceased as 45 (as per Ex.P2- Post Mortem Certificate), has adopted the multiplier 13 and awarded a sum of Rs.1,75,700/- (1125x12x13) towards Loss of earnings, which is reasonable. The amount awarded towards Loss of consortium and Funeral expenses are not excessive and the same need not be interfered with.

5.It may not be out of place to mention that Loss of love and affection to the second and third claimant, which is legally payable has not been awarded at all.

6.The future prospective income of the deceased had not been taken into account.

7.As far as negligence is concerned, the Claims Tribunal, on consideration of Ex.P1-First Information Report and also documents and on consideration of evidence of P.W.2, has rightly fixed the negligence on the part of the driver of the Transport Corporation.

8. 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.40 of 2002 dated 19.01.2004. 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. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

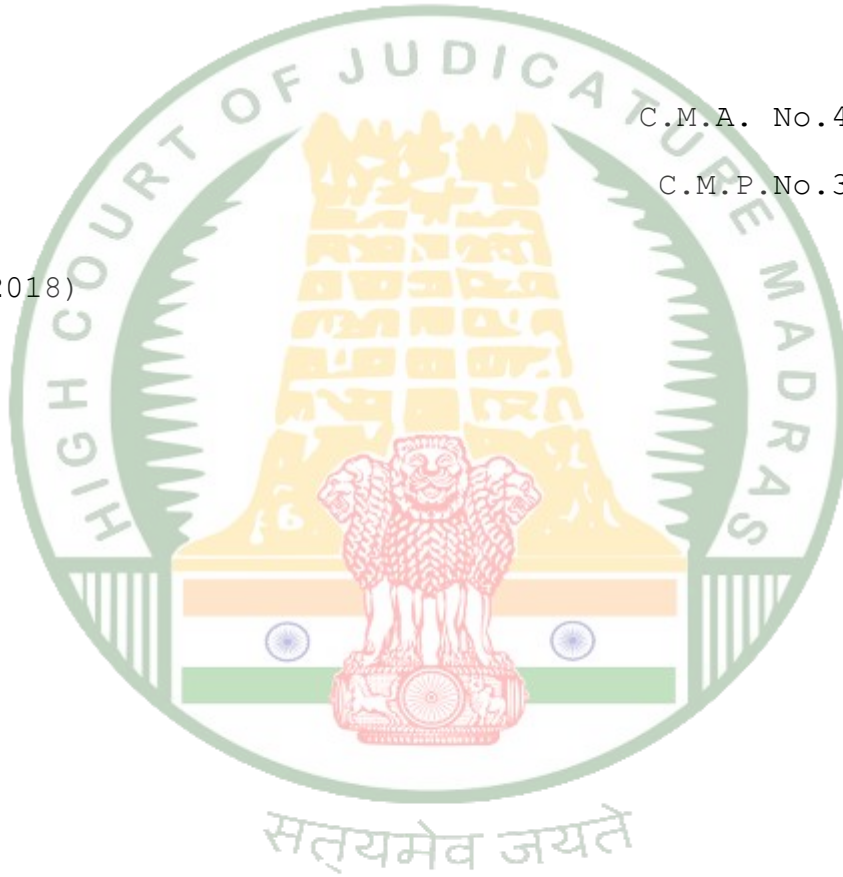
arr/srk

To

1. The Motor Accident Claims Tribunal
Fast Track Court - I, Chengleput
2. The Section Officer, VR Section,
High Court, Madras.

C.M.A. No.482 of 2017
&
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SV(CO)
SP(17/01/2018)



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