

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.12.2017

C O R A M

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.1050 of 2007

and

C.M.P.No.1 of 2007

The Managing Director,
Tamil Nadu State Transport Corporation,
Bharathipuram, Dharmapuri. ... Appellant/Respondent

/vs/

1. S.Seeranga Gounder
2. S.Madeshwari ... Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the award made in MCOP No.70 of 2006 dated 29.08.2006 on the file of the Motor Vehicles Accident Claims Tribunal and Principal District Judge, Dharmapuri at Krishnagiri.

For Appellant : Mr.D.Venkatachalam
For Respondents : Mr.U.Kumaravelan

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the Managing Director, Tamil Nadu State Transport Corporation challenging the Judgment and decree in MCOP.No.70 of 2006 dated 29.08.2006 passed by the Motor Vehicle Accident Claims Tribunal (Principal District Judge), Dharmapuri at Krishnagiri.

2. On 18.02.2004, when the deceased Murugan (driver of the lorry) and the cleaner of the lorry bearing Regn.No.KA-01-AC-2248, were standing at the left side of the Krishnagiri to Hosur NH road at Tamil Nadu Distillery Company, a bus bearing Regn.No.TN-29-N-1320 belonging to the first respondent-Transport Corporation driven by its driver in a rash and negligent manner, hit the said Murugan. In the said accident, the said Murugan sustained head injury and died on the spot. Hence, the respondents herein, who are the parents of the deceased Murugan, made a claim before the Tribunal.

3. Before the Tribunal, on the side of the claimants, the 1st claimant (father of the deceased) examined himself as P.W.1, besides examining two other witnesses as P.W.2 and P.W.3 and marked six documents as Ex.P.1 to Ex.P.6. On the side of the Transport Corporation, neither oral nor documentary evidence was adduced.

4. After analysing the entire evidence, the Tribunal has come to the conclusion that the accident has occurred only due to the rash and negligent driving of the driver of the bus belonging to the respondent's-Transport Corporation. By coming to such a conclusion, the Tribunal has calculated the compensation under various heads and passed an award for a sum of Rs.3,89,000/- . Challenging the quantum of compensation awarded by the Tribunal, the present appeal has been filed. The break-up details of the compensation award of the Tribunal are as follows:

Sl.No.	Head	Amount granted by the Tribunal
1	Loss of pecuniary benefits to the dependants of the deceased	Rs.3,74,000/-
2	Love and Affection	Rs. 10,000/-
3	Funeral expenses	Rs. 5,000/-
	Total	Rs.3,89,000/-

5. Heard the learned counsel on both sides and perused the materials available on record.

6. From a perusal of the material available on record, it is seen that the Tribunal has not considered the fact that the deceased was a bachelor and aged 25 years at the time of accident. But, the Tribunal has fixed a sum of Rs.2,750/- as monthly income of the deceased and adopted multiplier 17, thus arrived at a sum of Rs.5,61,000/-. Thereafter, by deducting 1/3 amount towards his personal expenses, the Tribunal has awarded a sum of Rs.3,74,000/- towards Loss of pecuniary benefits to the dependants of the deceased. In view of the Judgment of the Hon'ble Supreme Court in Sarala Verma vs. Delhi Transport Corporation [2009-5-LW-561], the correct multiplier should be adopted for the age group 20-25 is 18. But, the Tribunal has wrongly adopted the multiplier 17. Hence, the same needs modification. Accordingly, if the multiplier 18 is adopted, the amount comes to Rs.5,94,000/-. If 1/3 is deducted towards personal expenses of the deceased, the balance amount comes to Rs.3,96,000/-. Hence, the amount of Rs.3,74,000/- awarded by the Tribunal under the head of Loss of pecuniary benefits to the

dependants of the deceased is hereby modified and enhanced to Rs.3,96,000/-.

7. That apart, the Tribunal has awarded a sum of Rs.10,000/- towards loss of love and affection and a sum of Rs.5,000/- for funeral expenses, which appears to be reasonable. Hence, the same are confirmed. Further, the interest at the rate of 7.5% per annum awarded by the Tribunal also does not require any modification, as the same is reasonable. Accordingly, the compensation granted by the Tribunal is modified as follows:-

Sl.N o.	Head	Amount granted by the Tribunal	Amount granted by this Court
1	Loss of pecuniary benefits to the dependants of the deceased	Rs.3,74,000/-	Rs.3,96,00 0/-
2	Love and Affection	Rs. 10,000/-	Rs. 10,000/-
3	Funeral Expenses	Rs. 5,000/-	Rs. 5,000/-
	Total	Rs.3,89,0 00/-	Rs. 4,11,000/-

Accordingly, the total sum of Rs.3,89,000/- awarded by the Tribunal is hereby modified and enhanced to Rs.4,11,000/-.

8. In view of the above modification, the civil miscellaneous appeal is disposed of. The Transport Corporation/Appellant herein is directed to deposit the entire amount of compensation, as enhanced by this Court, less the amount, if any, already deposited, along with interest @ 7.5% per annum from the date of petition till the date of deposit to the credit of MCOP No.70 of 2006 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the claimants/respondents, as per the ratio of apportionment ordered by the Tribunal, through RTGS, within a period of two weeks thereafter. Necessary court fee, if any, shall be paid on the enhanced compensation amount by the claimants herein before receiving the copy of the judgment. Consequently, connected Miscellaneous Petition is closed. No costs.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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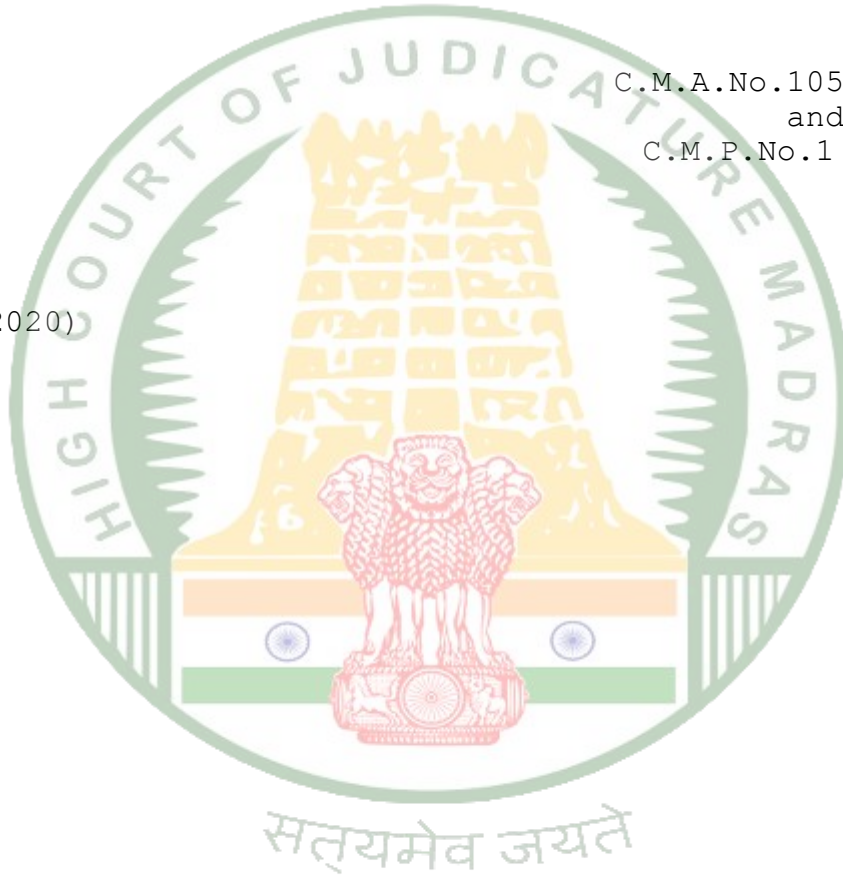
1. The Motor Vehicles Accident Claims Tribunal and
Principal District Judge,
Dharmapuri at Krishnagiri.

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

+1 CC to Mr.D.Venkatachalam, Advocate sr 90542.

C.M.A.No.1050 of 2007
and
C.M.P.No.1 of 2007

MP (CO)
SP (05/02/2020)



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