

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2017

CORAM : THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

CMA.No.1298 of 2009
and MP.No.1 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division -I,
12, Ramakrishna Road,
Salem - 7.

... Appellant /Respondent
Vs.

1.Kolandavel
2.Kokila

... Respondents/Petitioners

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award made in MCOP.No.337 of 2006 dated 15.07.2008 on the file of the Motor Vehicles Accident Claims Tribunal and Sub Judge, Sankagiri.

For Appellant : Mr.S.V.Vasanth Kumar
For Respondents : Mr.V.Anandhamoorthy
for Mr.N.Manokaran

JUDGMENT

The State Transport Corporation has come forward with this appeal challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, (Sub Court), Sankagiri in MCOP.No.337 of 2006.

2. On 05.09.2006 at about 9.50 a.m., one Nallammal was fatally ran over by the very bus she was travelling, as the bus took off by its driver even as Nallammal was in the process of alighting from the bus. She was aged 53 years and was engaged in dairy and other agricultural activities. Claiming that she was earning Rs.7,000/- per month, her legal heirs moved the Tribunal with a claim of Rs.7,10,000/- and restricting the same to Rs.5,00,000/-. The Tribunal notionally fixed her income at Rs.3,000/- per month and after providing one third deduction towards her personal expenses and after applying 11 as multiplier, it arrived at the loss of support at Rs.2,64,000/-. Including compensation on other non-pecuniary heads, it has passed an award for Rs.2,79,000/- with interest @ 7.5% per annum.

3. The learned counsel for the appellant submitted that there is no documentary proof which lays proof of claim that the deceased was engaged in agricultural or dairy related activities and was earning any income at that relevant time. Therefore, to presume that she was earning Rs.3,000/- per month is arbitrary. Further, the Tribunal has ignored the defence of the appellant that it was not the driver's negligence that has resulted in the accident, but the victim had invited the fate on herself when she attempted to alight from the bus even before it stopped.

4. I heard the learned counsel for the respondents and perused the papers. I find no material to come to a conclusion different from the one that the Tribunal had arrived at on the aspect of negligence alleged against the driver of the bus. As to the quantum, even if it is required to be assumed that the victim was only a home-maker, the law has settled firmly now that even the home-maker's contribution to her family has to be valued and if so reckoned what the Tribunal awarded appears just, fair and reasonable. In the circumstances, I find no ground to interfere with the award.

5. In the result, I find no merit in the appeal, hence dismissed without costs and the award of the Tribunal is confirmed. The appellant is directed to deposit the award amount, less if any already deposited, within six weeks from the date of receipt of a copy of this order, whereupon the claimants are permitted to withdraw the same forthwith from the Tribunal. Consequently, connected miscellaneous petition is closed.

6. Mr.S.V.Vasanth Kumar, the learned counsel who is in the panel of the State Transport Corporation has assisted the Court in disposing of the matter, even though he has not been formally instructed by the State Transport Corporation. He is entitled to such remuneration as is payable to him as per the norms of the Transport Corporation.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
SubCourt,
Sankagiri.

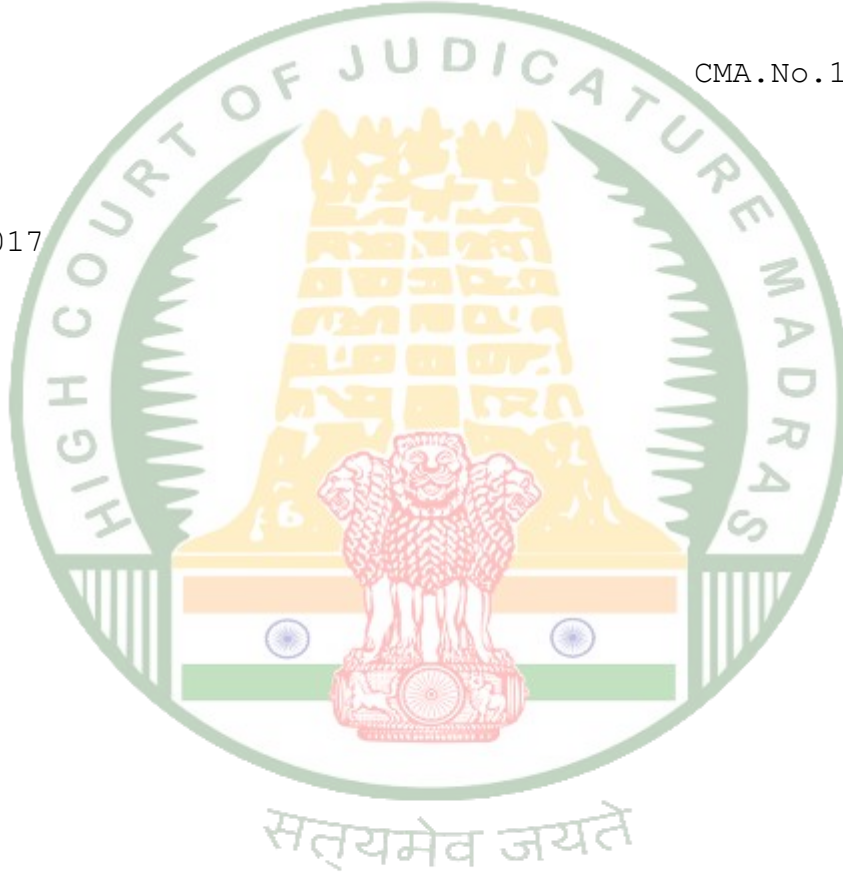
2.The Section Officer,
VR Section, High Court, Madras.

+1 cc to M/s.N.Manokaran Advocate sr 3427

+1 cc to M/s.S.V.Vasantha kumar Advocate sr 3382

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