

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM  
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Civil Miscellaneous Appeal No.2493 of 2013  
and  
M.P.Nos.1 of 2013 and 1 of 2014

The Managing Director,  
Tamil Nadu State Transport Corporation Ltd.,  
Thiruvannamalai Town & District. ... Appellant/Respondent No 1

Vs

1.Kaanammal  
W/o.Late Chinnarasu

2.Anand Prasath  
S/o.Late Chinnarasu

3.Arun Prasath  
S/o.Late Chinnarasu

4.Minor Hariprasath  
S/o.Late Chinnarasu

5.Minor Priyadharshini  
D/o.Late Chinnarasu  
(minors 4 and 5 are represented by  
their mother N.F.Kannammal)

6.The Managing Director,  
No.3/137, Salamedu,  
Vazhudhareddy Post,  
Villupuram Taluk & District.

(as per I.A. No 258/2012 impleaded the 2<sup>nd</sup> Respondent)

... Respondents/Petitioners 1  
to 5/

Respondent

2<sup>nd</sup>

Civil Miscellaneous Appeal filed u/s.173 of the Motor  
Vehicles Act, 1988, against the judgment and decree of Motor

Accident Claims Tribunal, Principal District Judge, Krishnagiri, passed in M.C.O.P.No.682 of 2009 on 29.10.2012.

For Appellant : Mr.S.V.Vasanthakumar  
For Respondents : Mr.V.Vijaya Kumar [R1 to R5]

R6 - Given up

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J U D G M E N T

[Judgment of the Court was made by C.T.SELVAM, J.]

This Civil Miscellaneous Appeal arises against the judgment and decree of Motor Accident Claims Tribunal, Principal District Judge, Krishnagiri, passed in M.C.O.P.No.682 of 2009 on 29.10.2012.

2. Appellant is the Transport Corporation. Respondents 1 to 5 are legal heirs of the deceased Chinnarasu. At about 9.00 p.m., on 07.10.2008, while the deceased was riding a two wheeler, a bus bearing registration No.TN-32-N-2833 dashed against the two wheeler, due to which the deceased died instantaneously. Claimants sought compensation in a sum of Rs.15,00,000/-.

3. Before the Tribunal, on the side of respondents 1 to 5/claimants, 3 witnesses were examined and 10 exhibits were marked. On the side of appellant transport corporation, the driver of the bus has been examined and no exhibits were marked.

4. On appreciation of materials before it, Tribunal, under judgment dated 29.10.2012, found that the death has occurred owing to the rash and negligent driving of the bus. To prove the avocation of the deceased, respondents 1 to 5 have marked Exs.P9 and P10, salary certificates and on the basis of the same, Tribunal has fixed the monthly income of the deceased at Rs.23,705/-. As the dependents were 5 in number, Tribunal had deducted 1/4<sup>th</sup> towards personal expenses and fixed the annual income at Rs.2,13,444/- [(23,705 - 5,918)\*12]. As the deceased was aged 52 at the time of death, Tribunal, instead of applying multiplier, took into consideration the remaining period of service of deceased viz., 6 years and arrived at loss of income at Rs.12,80,664/- [2,13,444\*6]. This Court finds that a reasonable sum of Rs.10,000/- towards funeral expenses, Rs.10,000/- towards loss of consortium and Rs.10,000/- towards loss of love and affection has been awarded. Taking into consideration the fact that if the deceased is alive, he would have been provided 50% of the salary as pension i.e., Rs.8,893/-, Tribunal has awarded a sum of Rs.5,33,580/- [(8,893\*12)\*5] towards pension. The total compensation awarded amounts to Rs.18,44,244/-. Appellant Insurance Company was directed to pay the said sum together with interest at 7.5% p.a.

from the date of claim petition till the date of payment. The Tribunal has also directed due apportionment of the compensation amount between the claimants inter alia permitting first respondent to withdraw to Rs.2,44,244/- and directing deposit of the balance sum of Rs.3,00,000/- of the first respondent and the share of respondents 2 and 3 in a nationalised bank for a period of three years and deposit of the share of 4<sup>th</sup> respondent in a nationalised bank till he attains majority and that of the 5<sup>th</sup> respondent till she attains the age of 21. Tribunal has also permitted withdrawal of interest once in six months by respondents 1 to 3 and the interest on minors' deposit shall be withdrawn by first respondent once in six months towards the upkeep of the minor. We find no error in the order under challenge.

The Civil Miscellaneous Appeal is dismissed. The judgment and decree of Motor Accident Claims Tribunal, Principal District Judge, Krishnagiri, passed in M.C.O.P.No.682 of 2009 on 29.10.2012, is confirmed. Appellant Transport Corporation is directed to deposit the amount awarded less that already deposited within a period of six weeks from the date of receipt of this judgment. Respondents 1 to 3/claimants are at liberty to withdraw the amount on due application as apportioned by Tribunal. Sum payable to respondents 4 and 5/minors shall be held in deposit with a nationalised bank during the period of their minority. First respondent may withdraw the interest on such deposit once in three months towards defraying the expenses of respondents 4 and 5. No costs. Connected miscellaneous petitions are closed.

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

gm  
To

The Motor Accident Claims Tribunal,  
Principal District Judge,  
Krishnagiri.

Copy to

The Section officer  
VR Section, High Court, Madras. (2 copies)

+1 CC to Mr.V. Vijayakumar, advocate sr 77542.

+1 CC to Mr.S.V. Vasanthakumar, advocate sr 77251.

Civil Miscellaneous Appeal No.2493 of 2013

SP(22/12/2017)