

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 21.07.2017

CORAM:

THE HONOURABLE MRS. JUSTICE. PUSHPA SATHYANARAYANA

CMA.No.1747 of 2003
and
C.M.P.No.11100 of 2003

The Managing Director
Tamilnadu State Transport Corporation Ltd.,
(Salem Division II) Ltd.,
(Formerly known as Annai Sathya
Transport Ltd.,),
Bharathipuram,
Dharmapuri -5. ... Appellant/Respondent

Vs.

1. Chockalingam
2. Amudha ... Respondents/Petitioners

Prayer : Appeal filed under Section 173 of the Motor Vehicles Act, 1989 against the award made in MCOP.No.120 of 1994 dated 24.07.2002 on the file of the Motor Accident Claims Tribunal, (Additional District Court -Cum-Fast Track Court), Dharmapuri.

For Appellant : Mr.S.V.Vasantha Kumar

For Respondents : No appearance

J U D G M E N T

Challenging the finding of negligence as well as the quantum of compensation awarded by the Claims Tribunal in MCOP.No.120 of 1994 dated 24.07.2002, the Transport Corporation has come forward with this Civil Miscellaneous Appeal.

2. One Poovan, aged 17 years, a 9th standard student, met with an accident that occurred on 08.02.1994. Due to which, he sustained fatal injuries. Immediately he was admitted in the hospital and later he died in the hospital on the very same day. Hence, the appellants being the parents/legal heirs of the deceased have filed a claim petition in MCOP.No.120 of 1994,

seeking compensation for a sum of Rs.2,00,000/- .

3. The Tribunal, on consideration of oral and documentary evidence has awarded a sum of Rs.2,00,000/- The break-up details of the same are as follows:

Loss of earnings	-	Rs.1,52,000/-
Loss of Love and Affection	-	Rs. 25,000/-
Loss of Life Skill	-	Rs. 20,000/-
Funeral Expenses	-	Rs. 3,000/-
Total		Rs.2,00,000/-

After deducting a sum of Rs.25,000/- (which was deposited already), for the remaining amount of Rs.1,75,000/- the Claims Tribunal has awarded interest @ 9% per annum from the date of petition till the date of deposit.

4. The learned counsel for the appellant would submit that the amount awarded by the Tribunal is very high and it needs to be reduced. It is his further submission that the Claims Tribunal has fixed a sum of Rs.1,000/- as monthly income of the deceased which is on the higher side.

5.A perusal of the award would go to show that the Claims Tribunal, on consideration of Ex.P2- Post Mortem Report has taken the age of the deceased as 17 and on consideration of evidence of P.W.1- the father of the deceased, has fixed monthly income of the deceased Rs.1,000/- per month for the deceased who was a school student and by deducting 1/3rd towards his personal expenses and by multiplier 16, a sum of Rs.1,52,000/- was awarded towards Loss of earnings, which is reasonable. The amount of compensation awarded towards Funeral expenses, Loss of love and affection and Loss of life skill are not said to be excessive and the same need be interfered with.

6. As far as negligence is concerned, the Claims Tribunal on consideration of evidence of P.W.2- the eye witness to the accident and on a careful perusal of Ex.P1-FIR has rightly fixed the negligence on the part of the driver of the appellant bus and there is no reason to interfere with the same.

7. In the result, this Civil Miscellaneous Appeal is dismissed, confirming the Judgment and decree of the claims Tribunal, dated 08.02.1994, in M.C.O.P.No.120 of 1994. The appellant-Transport Corporation is directed to deposit the entire award amount, if not already deposited, within a period

of six weeks, from the date of receipt of a copy of this order.
On such deposit made, the Claimants are permitted to withdraw.
No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

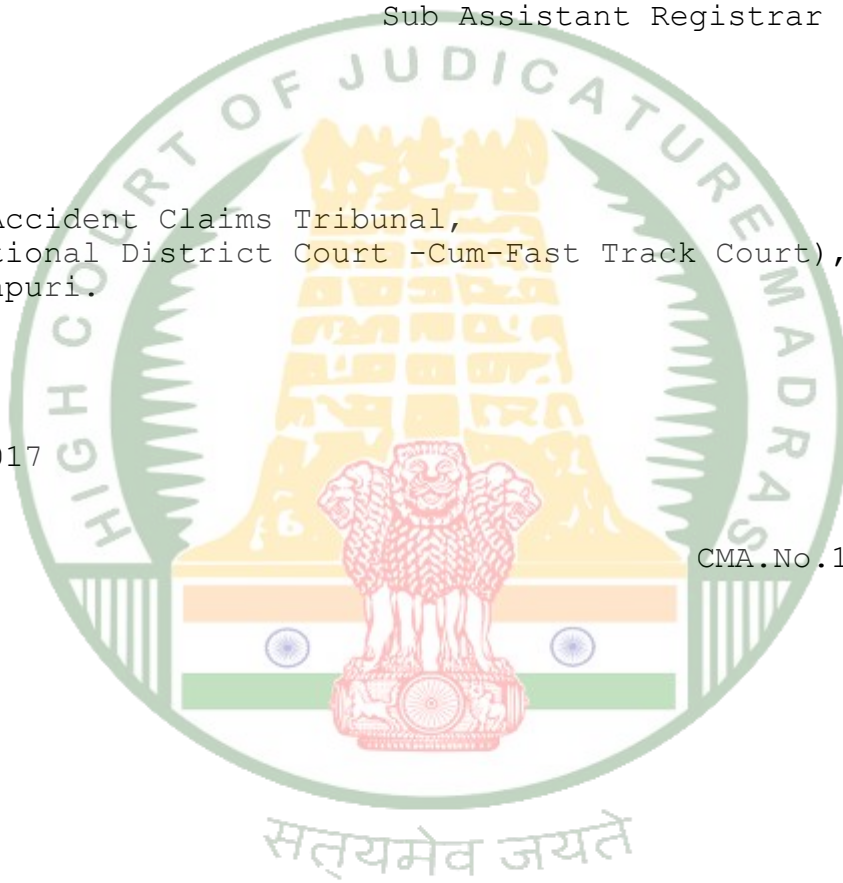
arr

To

1. Motor Accident Claims Tribunal,
(Additional District Court -Cum-Fast Track Court),
Dharmapuri.

sr(co)
aa29/08/2017

CMA.No.1747 of 2003



WEB COPY