

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALAC.M.A.No.2339 of 2017
and C.M.P.No.12586 of 2017

Tamil Nadu State Transport Corporation
(Salem Div.II) Ltd., Dharmapuri,
Rep. by its Managing Director ... Appellant

..VS..

1. Amaravathi
2. Minor. Vivekanandan
3. Unnamalai
4. Minor. Vidhyanathan
(2nd and 4th Minors are rep. by
N.F. mother / R-1) ... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 19.02.2004 made in MCOP No.1522 of 2000 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Salem.

For Appellant : Mr. R.Arunmozhi

J U D G M E N T

As against the claim made for a sum of Rs.5,00,000/-, there is an award for a sum of Rs.2,65,000/-. Challenging the quantum of compensation awarded as disproportionate, the Transport Corporation has filed this Appeal.

2. The legal representatives of the deceased Murugan in the capacity as widow (Amarvathi, aged 23), son (Minor.Vivekanandan, aged 5) and mother (Unnamalai, aged 42) of the deceased have filed the claim petition. The Tribunal has quantified the compensation with the following breakup details:-

Loss of dependency	-	Rs.2,40,000.00
Funeral expenses	-	Rs. 5,000.00
Loss of love and affection	-	Rs. 10,000.00
Loss of consortium	-	Rs. 10,000.00

		Rs.2,65,000.00

3. The accident is stated to have taken place, while the deceased was travelling in the bus belonging to the appellant Transport Corporation, while he was travelling as passenger.

3.1. It is the case of the claimants / respondents that the deceased, who was seated on the last seat of the bus, fell down from the bus, when the driver of the bus applied sudden breaks.

3.2. But the case of the appellant / Transport Corporation was that the deceased was standing at the footboard of the bus, and only because of his negligence, he fell down and invited the accident.

4. The Tribunal, after consideration of the materials, came to

the conclusion that it is only the bus driver, who was negligent in causing the accident and thus, the appellant is liable to compensate the claimants.

5. This finding does not require any interference as it is based on oral and documentary evidence adduced.

6. So far as the quantum of compensation is concerned, fixing the daily income at Rs.75/- and calculating the compensation only for a period of 25 days in a month, the monthly income has been fixed at Rs.1,875/- and the annual income has been fixed at Rs.22,500/- and deducting 1/3rd towards the personal expenses and adopting the multiplier of '16', the loss of dependency has been calculated at Rs.2,40,000/-. Awarding a sum of Rs.5,000/- towards the cremation expenses, Rs.10,000/- towards loss of love and affection, Rs.10,000/- towards consortium, the total has been quantified at Rs.2,65,000/-.

6.1. This award is under challenge by the Transport Corporation on the ground that the award is excessive.

7. It is relevant to point out that the accident is of the year 2000 and when there are three claimants, i.e., aged mother and

minor child to be maintained along with the wife, it is unexpected of the deceased to spend 1/3rd towards the personal expenses, if his income is taken only at Rs.1,875/-. With that meager income nobody can afford to spend 1/3rd towards the personal expenses.

8. It is also relevant to point out that the future prospective increase in income has not been considered. Further, for all the thirty days, the income has not been calculated by the Tribunal. For a minor child also, the loss of love and affection has been awarded only at Rs.10,000/-.

9. This accident had taken place in the year 2000 and the appeal is heard, on merits, in the year 2017. So far there is no appeal by the claimants. Under the given set of circumstances, it may not be appropriate to enhance the quantum of compensation.

10. Therefore, the Appeal has no merits and thus, the Appeal is dismissed. No costs. Consequently, the connected CMP is closed.

11. The Transport Corporation shall deposit the entire compensation amount, as awarded by the Claims Tribunal, along with interest at 9% per annum, from the date of petition till the

date of deposit, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. The ratio of apportionment shall be as ordered by the Claims Tribunal. The minor claimant should have attained majority as on now. Therefore, on such petition being taken out to declare the minor claimant as major, the claims Tribunal shall pay the compensation to the RTGS Account of the second claimant. In respect of other claimants also, the same procedure shall be followed.

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Index : Yes / No

Web : Yes / No

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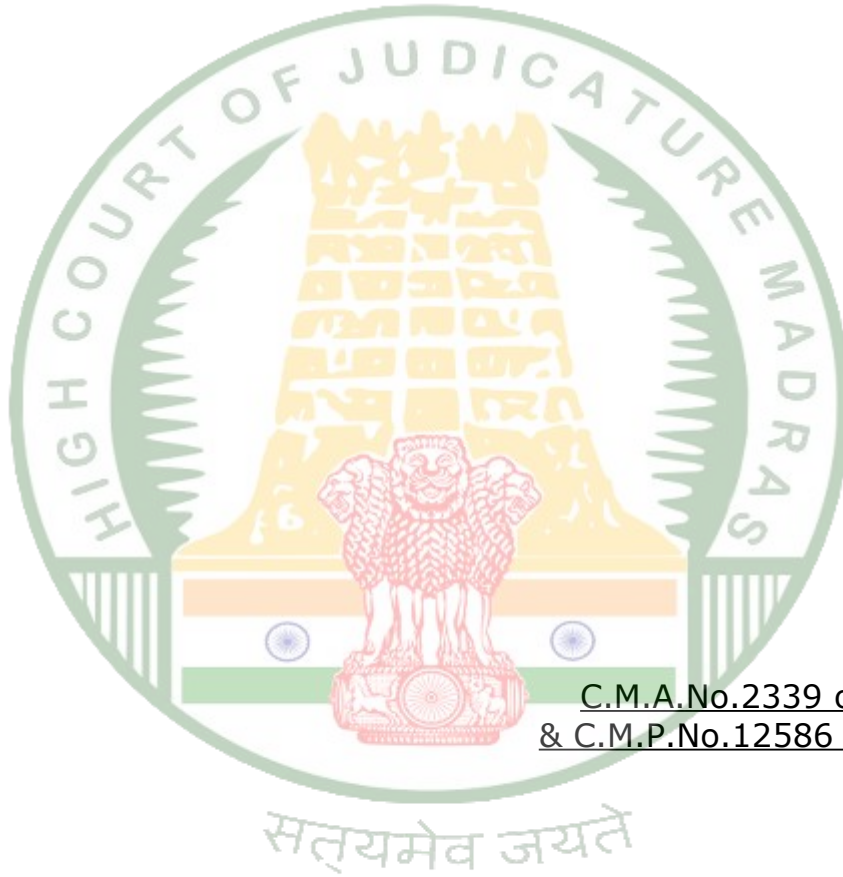
To

1. Motor Accident Claims Tribunal, Chief Judicial Magistrate, Salem.
2. The Section Officer, V.R.Section, Madras High Court, Chennai 104

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Dr. S.VIMALA, J.,

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