

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.2371 of 2017
and C.M.P.No.12704 of 2017

Tamil Nadu State Transport Corporation
(Villupuram) Ltd., Villupuram Division,
Villupuram

... Appellant

..VS..

S.Ambika

... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 15.12.2010 made in M.C.O.P.No.141 of 2008 on the file of the Motor Accident Claims Tribunal (Sub-Court), Cheyyar.

For Appellant : Mr. P.Paramasivadoss

J U D G M E N T

As against the claim made for a sum of Rs.9,00,000/-, award has been passed by the Claims Tribunal for a sum of Rs.5,81,000/-. Challenging the quantum of compensation as disproportionate to the income of the deceased, this appeal has been filed by the Transport Corporation.

2. The deceased, M.Seethuraman, aged 23, running a Photo Studio, earning a sum of Rs.10,000/- per month, died in an accident on 17.04.2008.

3. It is the specific contention of the learned counsel appearing for the appellant / Transport Corporation that the monthly salary of the claimant ought to have been fixed only at Rs.3,500/- and that the award under the head of mental agony at Rs.10,000/- is un-sustainable.

4. Contending that, at the young age of 20, the wife has suffered loss of consortium and loss of love and affection of the husband and loss of dependency, the wife has made a claim for a sum of Rs.9,00,000/-.

4.1. The Tribunal has passed an award by taking into account the following parameters.

5. It is the case of the claimant / wife that the husband was running a digital photo studio in the name of Ramu Digital Studio at Cheyyar, Arni Koot Road, and he was earning a sum of Rs.10,000/- per month.

6. Finding that no documentary evidence has been filed to accept the contention and considering that the accident had taken place in the year 2008, the Tribunal has taken daily income at Rs.125/- to Rs.150/- and the average monthly income at Rs.4,000/- . Considering the age of the deceased as 23, the multiplier has been fixed as 17. Deducting 1/3rd towards the personal expenses, monthly dependency has been quantified at Rs.2,667/-. Thus, the total loss of dependency has been calculated at Rs.5,44,068/- (Rs.2,667/- x 12 x 17). The loss of love and affection has been quantified at Rs.15,000/-, loss of consortium at Rs.15,000/-, cremation expenses at Rs.5,000/-, transport expenses at Rs.2,000/-, the total amount of compensation has been quantified at Rs.5,81,068/- rounded off to Rs.5,81,000/-.

7. From the details of the award passed, it would be clear that the award passed towards loss of income is reasonable and the award passed for loss of consortium is less.

8. The contention raised by the learned counsel for the appellant that the deduction should be made at 50%, as there were only two persons in the family, cannot be accepted as the running of

the family involves future planning and savings. Just because there were only two persons in the family, deduction cannot be made at 50%, just like a case of a bachelor.

9. Considering the details of award passed, the contention that the award passed is excessive cannot be accepted on any of the grounds.

10. Therefore, the Appeal has no merits and thus, the Civil Miscellaneous Appeal is dismissed, even though the delay has been condoned. No costs. Consequently, the connected CMP is closed.

11. It is represented that the entire award amount, as ordered by the Claims Tribunal, has been deposited by the appellant / Transport corporation, before the Tribunal and the claimant has already withdrawn 50% of the said amount.

11.1. In view of the said submission, the remaining amount shall be transferred to the savings bank account of the major claimant, through RTGS, forthwith.

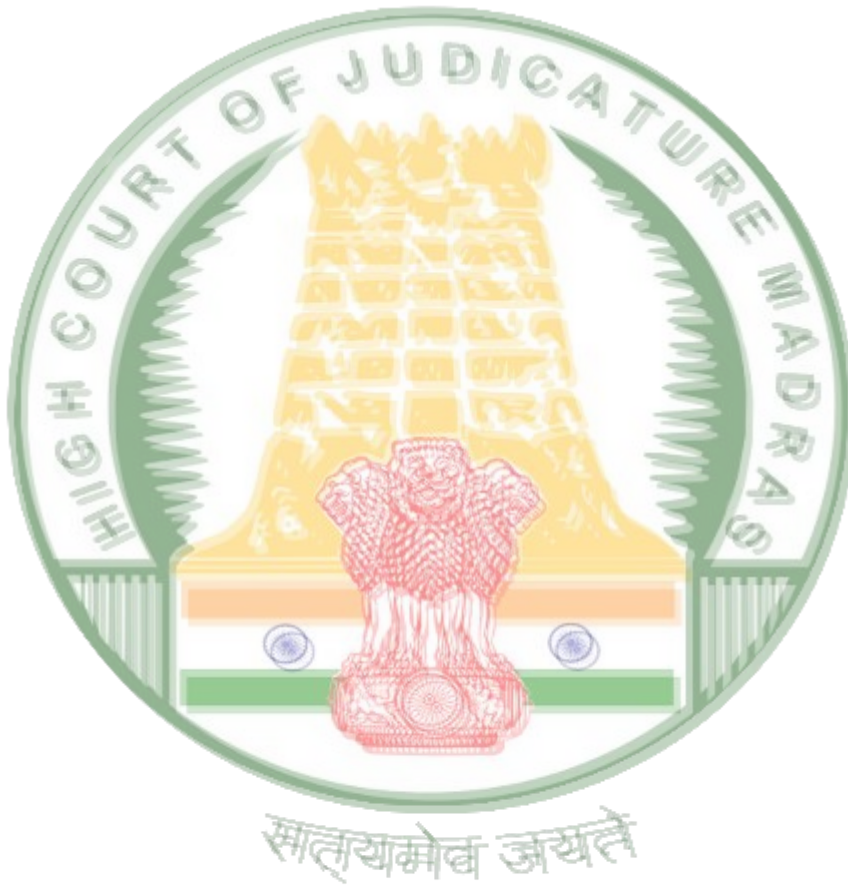
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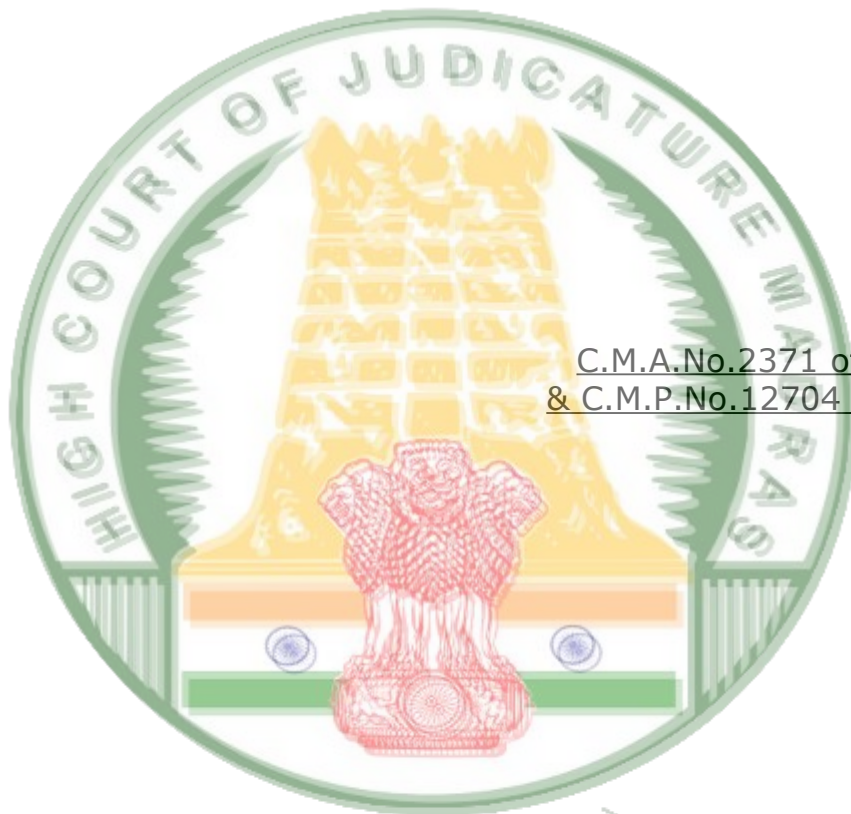
1. Motor Accident Claims Tribunal (Sub-Court), Cheyyar.
2. The Section Officer, V.R.Section, Madras High Court,
Chennai 104



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Dr. S.VIMALA, J.,

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