

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.2401 of 2017
and C.M.P.No.12984 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
(TNSTC) Villupuram Division,
Villupuram

.. Appellant

..VS..

1. V.Vasantha
2. V.S.Viswanathan (died)

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 24.03.2016 made in M.C.O.P.No.3934 of 2008 on the file of the Motor Accident Claims Tribunal, (Chief Judge), Small Causes Court, Chennai.

For Appellant : Mr. S.Sairaman

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JUDGMENT

Challenging the quantum of compensation awarded to a twenty year old Diploma holder in Mechanical Engineering, in an accident that took place on 31.10.2007, this Appeal has been filed.

In respect of the claim made originally by both the parents and later continued by the mother alone, after the death of the father, the Tribunal has passed an award for a sum of Rs.8,96,127/-. Challenging the same as exorbitant, this Appeal has been filed.

2. A perusal of the details of the award passed by the Claims Tribunal would go to show that the monthly income of the deceased has been taken at Rs.4,500/-, adding 50% towards future prospective increase in income and thus, fixing the monthly contribution at Rs.6,750/-, at the same time, deducting 50% towards personal expenses and adopting multiplier of 18, the loss of pecuniary benefit has been calculated at Rs.7,29,000/-. Awarding a sum of Rs.1,00,000/- towards loss of love and affection, funeral expenses at Rs.25,000/-, transport to hospital at Rs.5,000/-, further quantification has been done.

3. The deceased, at the time of accident, had been suffering from the injuries originally and only, at a later point of time, he has died. The medical expenses has been quantified at Rs.37,127/-. Thus, the overall quantum of compensation is quantified at Rs.8,96,127/-.

4. The learned counsel for the appellant / Transport Corporation would point out that, when the deceased was only a student studying Diploma in Mechanical Engineering and therefore, fixing of monthly income at Rs.4,500/- is unwarranted and adding of future prospective increase in income is also unwarranted.

4.1. This contention of the appellant is against the facts and law. It is not only the actual earnings, but the potential earning capacity as well as the future earnings which are to be considered and that are the relevant factors to be considered at the time of quantifying the compensation.

5. Since the deceased had been the student of Diploma in Mechanical Engineering, there was every opportunity for him to get an employment and there is scope for good earnings. If the future earnings of a person, who has studied Diploma in Mechanical Engineering is considered, the income should have been more and not less than Rs.4,500/-. Therefore, the monthly income taken cannot be said to be unreasonable. The award under the heads of loss of love and affection and funeral expenses are passed on the

basis of standard practices being followed by the Courts.

6. So far as the medical bills are concerned, it is amply supported by documentary evidence and hence it cannot be challenged. The award passed under each and every heads is reasonable. Thus, the appeal has no merits and hence, the Appeal is dismissed.

7. The appellant shall deposit the entire award of compensation, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the amount to the Savings Bank Account of the major claimant through RTGS.

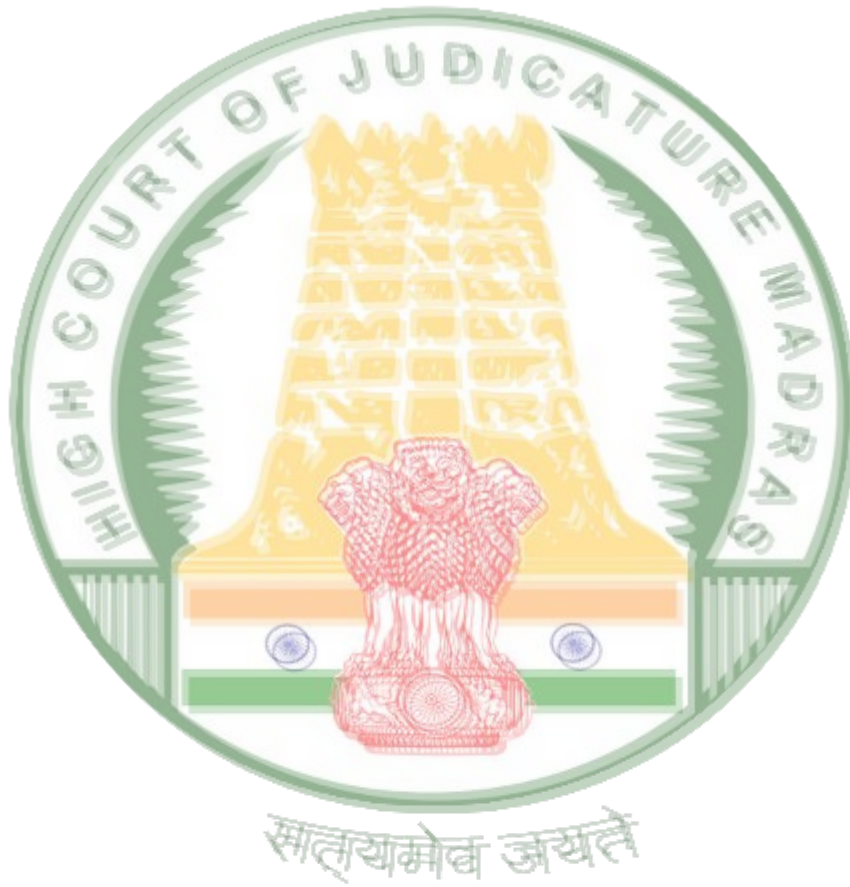
8. In view of the above reasonings, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected CMP is also dismissed.

01.08.2017

Index : Yes / No
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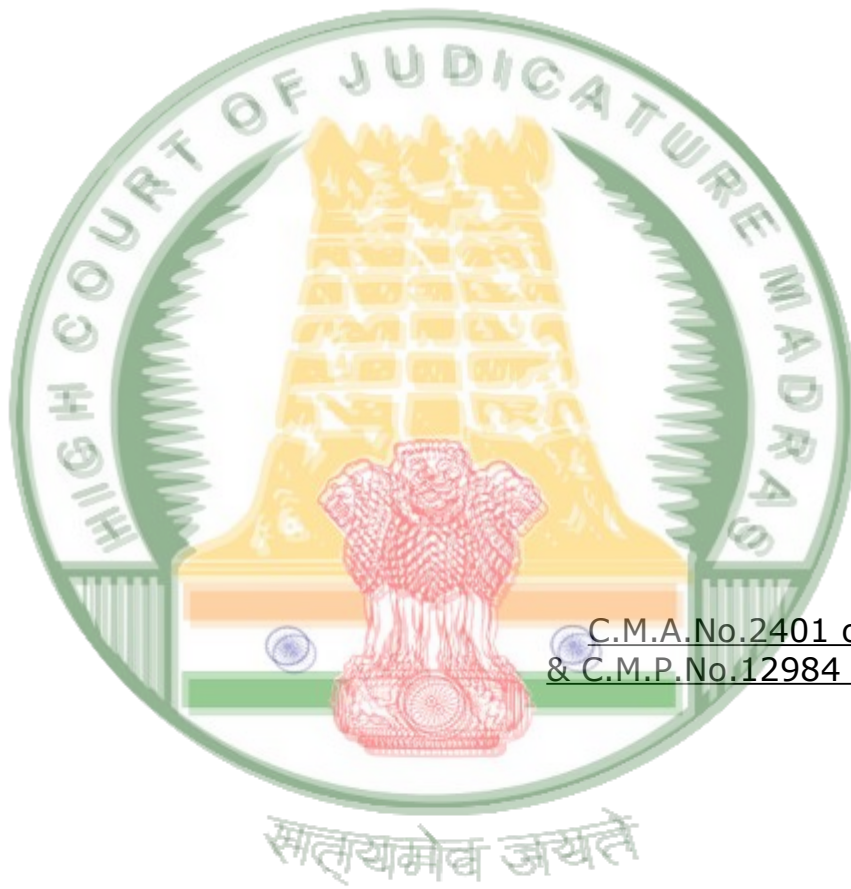
1. Motor Accident Claims Tribunal, (Chief Judge),
Small Causes Court, Chennai.
2. The Section Officer, V.R.Section, Madras High Court,
Chennai 104



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Dr. S.VIMALA, J.,

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