

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2764 of 2017

and

C.M.P.No.15687 of 2017

The Managing Director
Tamil Nadu State Transport Corporation
Salem.

.... Appellant

Vs.

1.Manonmani
2.Raju
3.Ranjithan
4.Minor Vasanthavel
5.Minor Sakthivel

(4th and 5th Minor respondents are represented
by their next friend and mother 1st respondent)

.... Respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 to set aside the judgment and decree passed in M.C.O.P.No.119 of 2015, dated 17.03.2016, on the file of Motor Accident Claims Tribunal, Special District Judge, Villupuram.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

The first claimant as mother, second claimant as father, third claimant as sister, 4th and 5th claimants as brothers have filed the

claim petition for compensation, in respect of death of one Gnanavel. The deceased was aged 23, earning a sum of Rs.16,000/- per month, as driver, died in an accident on 04.06.2013.

2.The claim petition, claiming a sum of Rs.20,00,000/- as compensation. The Tribunal, after consideration of materials, passed an award for a sum of Rs.7,98,000/-. Challenging the same, the Transport Corporation has filed this appeal.

3.The only contention raised by the learned counsel for the appellant is that the monthly income of the deceased ought not to have been taken at Rs.6,500/-, especially in the absence of documentary evidence.

4. In order to appreciate this contention, it is necessary to look into the details of the award passed by the Claims Tribunal. The Tribunal has fixed age of the deceased as 23, based upon Post Mortem Report and based on the decision reported in **2009 SAR (Civil) 592 (Sarala verma Vs Delhi Transport Corporation)** multiplier of 18 was adopted.

5. Observing that the claimants 3rd to 5th are living under the care and custody of claimants 1 and 2, the Tribunal has ordered 50%

education towards the personal expenses of the deceased. Towards loss of love and affection a sum of Rs.50,000/- to P-1 and P-2 has been awarded and Rs.30,000/- to P-3 to P-5 has been awarded and Rs.20,000/- towards cremation expenses and Rs.50,000/- towards care and protection to petitioners have been awarded and thus a total sum of Rs.7,98,000/- has been awarded by the Claims Tribunal.

6. The amount of compensation claimed by the claimants was Rs.25,00,000/-. The Tribunal has taken the daily income of the deceased at Rs.200/- and the monthly income at Rs.6,000/-. This accident has taken place in 2013. In respect of the accident of the year 2009 for an agriculturist the Hon'ble Supreme Court fixed the monthly income at Rs.6,500/- in the case of based upon **Syed Sadiq, etc., Vs.Divisional Manager, United India Insurance Co., Ltd., reported in 2014 (1) TNMAC 459 (SC),.** So far as this case is concerned monthly income has not even been fixed at Rs.6,500/- therefore the contention that the monthly income fixed is high cannot be accepted.

7. Even the amount awarded towards loss of love and affection is meagre.

8. Under the said circumstances, the award passed by the claims Tribunal cannot be said to be excessive and appeal is no acceptable grounds.

9. In the result, this Civil Miscellaneous Appeal is dismissed at the admission stage itself. Consequently, connected Civil Miscellaneous petition is closed. No costs.

10. The appellant / Transport Corporation is directed to deposit the entire award amount, along with interest and costs, as awarded by the claims Tribunal, less the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgement. On such deposit being made the major claimants are entitled to withdraw their share of compensation with proportionate interest therefor and the share of the minor claimants shall be kept in a fixed deposit, reinvestment scheme, in any one of the Nationalised banks till they attain majority, as per the ratio of apportionment made by the interest accrued thereon shall be withdrawn by the guardian of the minor claimants directly from the bank and shall be utilized for the welfare of the minor.

23.08.2017

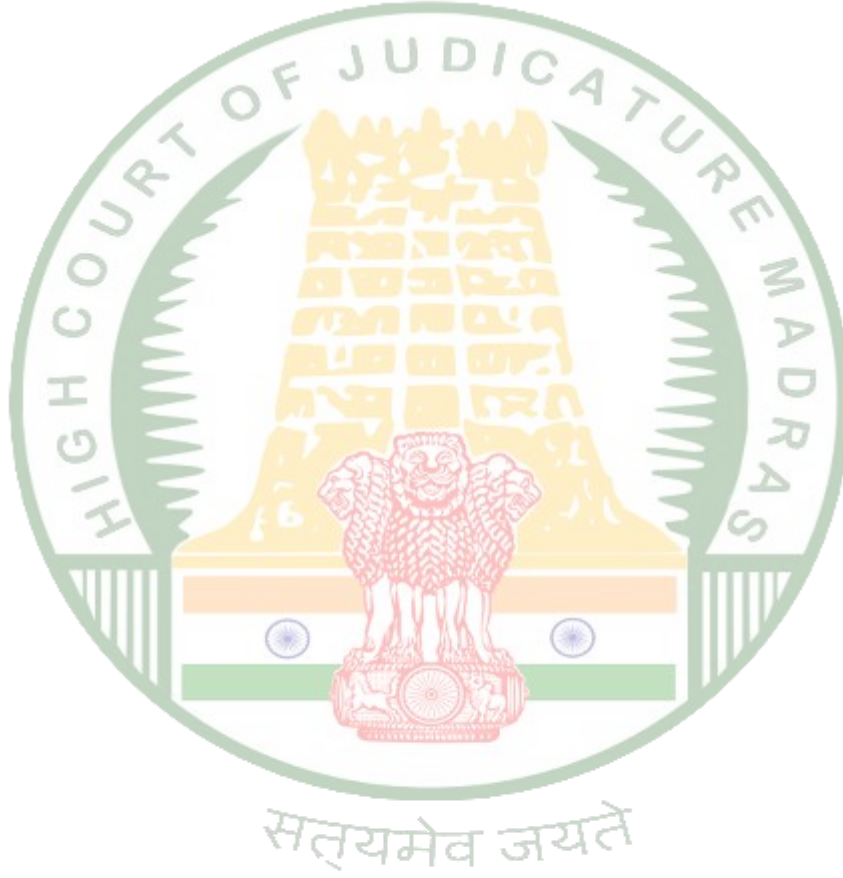
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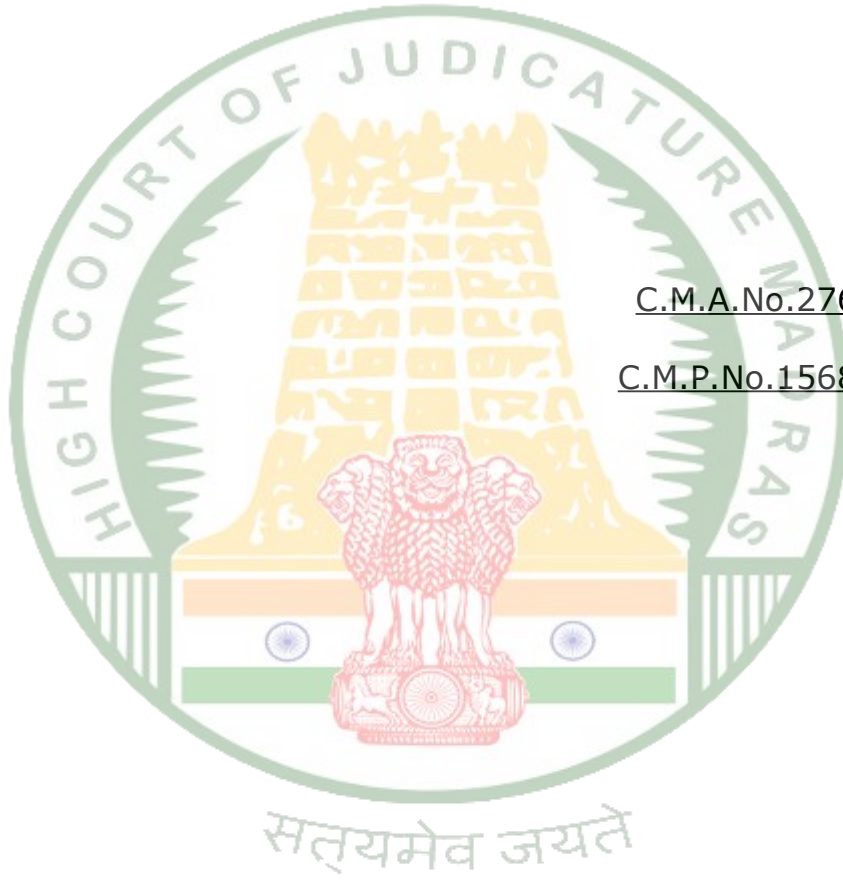
To

1. The Motor Accident Claims Tribunal,
Special District Judge, Villupuram.
2. The Section Officer, V.R. Section, High Court, Madras.



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Dr.S.VIMALA,J.
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