

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 23.10.2018

CORAM:

THE HONOURABLE Tmt. JUSTICE S. RAMATHILAGAM

C.M.A.No.2026 of 2007
and
M.P.No.1 of 2007

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Bharathipuram, Salem Main Road,
Dharmapuri. Appellant / Respondent

Versus

1. Venkatesappa
2. Shankar
3. Minor Ananth Nayak
4. Minor Jagadesan
5. Minor Vijayakanth
(Minors rep. by their next
Friend 1st Respondent) Respondents / Petitioners

Prayer : Civil Miscellaneous Appeal filed under Sections 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 27.03.2006 made in M.C.O.P.No.284 of 2005 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Dharmapuri.

For Appellant : Mr.D.Venkatachalam

For Respondents : No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 27.03.2006 made in M.C.O.P.No.284 of 2005 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Dharmapuri.

2. The brief facts of the case leading to the claim application are as follows :

On 06.05.2005, when the deceased Seethamma was travelling in the TVS mopet bearing Registration No.TN 29 Z 9739 as pillion

rider which was driven by her husband Vekaesappa from Hosur to Idaiyanaloor and they were proceeding in the Thinnur bus stop, in a very careful manner at the left side of the mud road, the bus which belonged to the respondent bearing Registration No. TN 29 N 0861 driven by its driver in a rash and negligent manner which came in the opposite direction hit against the Mopet, which was driven by the 1st claimant/husband, due to which the 1st claimant had sustained severe injuries and the said Seethamma died on the spot due to multiple fatal injuries. Hence, the petitioners claimed a sum of Rs.12,95,000/- as compensation.

3. The respondent/ Transport Corporation in the counter statement denied the facts stated by the petitioner regarding the accident as stated in the claim application. The other facts regarding the age, income, earning capacity of the person are also denied by the Transport Corporation. It is vehemently denied by the respondent that it is the 1st petitioner who had driven the two-wheeler without following the traffic rules and also not possessing valid license to drive the said two-wheeler at the time of accident.

4. The Tribunal, after analyzing the evidence and documents placed before it, had given finding that the accident had occurred only due to rash and negligent driving on the part of the driver of the Transport Corporation bus. The Tribunal has also observed that the deceased Seethamma was in possession of agricultural land and she was also doing agricultural work. The Tribunal by considering the said facts, came to conclusion that the deceased would have earned a sum of Rs.20,000/- per month. Accordingly, calculated the loss of income of the deceased by applying the multiplier method at Rs.3,20,000/- and awarded the compensation under the following heads.

Heads	Award amount by the Tribunal
Loss of Income (Rs.20,000 x 16)	3,20,000.00
For Love and Affection for the 1 st claimant	10,000.00
For Consortium	10,000.00
For love and affection for the 2 to 5 claimants each Rs.10,000/-	40,000.00
For Funeral Expenses	5,000.00
TOTAL	3,85,000.00

Aggrieved against the said order, the Tamil Nadu Transport Corporation/appellant herein has preferred this appeal.

5. In the grounds of appeal, it has been stated that the accident had occurred only due to the husband of the deceased who had driven the TVS 50 without observing the traffic rules in a rash and negligent manner. Further, the insurer of the said two-wheeler was also not made as a party and hence, the claim application is not proper. Regarding the other aspects viz., adopting the multiplier and assessing the annual income of the deceased at Rs.30,000/- are all stated as excessive. On the whole, the sum awarded at Rs.3,85,000/- is totally excessive without any basis and relevant documents.

6. Heard the appellant side. No appearance for the respondents.

7. It is argued by the learned counsel for the appellant that the Tribunal has not considered the aspect of negligence on the part of the deceased husband, who was not having valid driving license at the time of accident. Though in the grounds of appeal, the appellant denied the liability and compensation, the learned counsel for the appellant has argued only on the point of quantum which according to him is excessive.

8. It is argued by the appellant that in the absence of any document, the annual income of the deceased has been taken as Rs.20,000/- which is without any basis and not justified. But, on a perusal of records, it is observed that the deceased was 35 years at the time of accident and there was also relevant documents filed by the claimants/respondents that the deceased was in possession of agricultural land. Especially, as per Ex.P3, the deceased owned 78 cents, 1 acre and 1 cent punja land and also one house plot to an extent of 192 sq.ft., hence, it is proved that the deceased was doing agricultural work. Hence, the assessment of the Tribunal by fixing the annual income at Rs.20,000/- and also by taking into consideration, the age of the deceased the application of multiplier are also very much reasonable. Further, the sum awarded under the heads consortium, loss of love and affection are also quite reasonable. This Court is of the view that the sum arrived by the Tribunal based on the documents and evidence and the other facts relating to the age, income and the loss caused to the family, are very much reasonable and proper. Hence the award by the Tribunal and the finding of the Tribunal does not require any interference.

9. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

10. Accordingly, the appellant/ Transport Corporation is directed to deposit the entire award amount by the Tribunal, with interest and costs, after adjusting the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the same to the claimant's bank account through RTGS within one week thereon.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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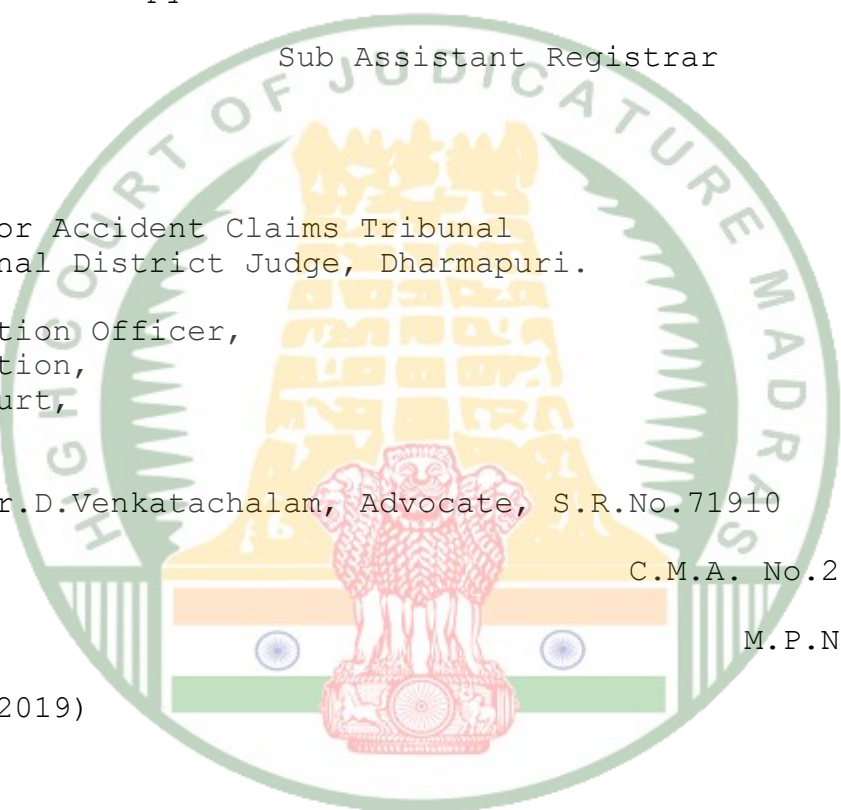
To

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

+1 cc to Mr.D.Venkatachalam, Advocate, S.R.No.71910

C.M.A. No.2026 of 2007
and
M.P.No.1 of 2007

pvs (CO)
SSM(23/07/2019)

The seal of the High Court of Judicature Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. Below the gopuram is a red elephant capital. The entire emblem is set against a green background with a white border. The text 'HIGH COURT OF JUDICATURE MADRAS' is written in a semi-circle around the top. At the bottom, the Sanskrit motto 'सत्यमेव जयते' (Satyameva Jayate) is written in Devanagari script.

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