

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NOS.1817 OF 2017 AND 479 OF 2018
AND CONNECTED MISCELLANEOUS PETITIONS

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Villupuram ... Appellant in both CMAs'
/Respondent in both CMA's

Vs.

Maheswari ... Respondent in both CMAs'
/Petitioner in both CMA's

PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed by the Motor Accident Claims Tribunal, II Additional District Court, Tindivanam, in MCOP No.55 of 2013 and MCOP No.54 of 2013 respectively, dated 19.08.2013.

For Appellant : Mr.K.J.Sivakumar
For Respondent : Mr.M.R.Thangavel

COMMON JUDGMENT

These Civil Miscellaneous Appeals are preferred against the common award dated 19.08.2013 passed in MCOP Nos.55 of 2013 and 54 of 2013 respectively, by the Motor Accident Claims Tribunal, Second Additional District Court, Tindivanam.

2. In a road accident, which had happened on 24.12.2010, the son and daughter of the claimant lost their lives. On the death of the son and daughter, claimant preferred two claim petitions. To prove the case, she had examined herself as P.W.1 and an eyewitness to the accident as P.W.2. Totally eight documents were marked to substantiate her claim. The Tribunal below, based on the First Information Report, Ex.P1, and on the basis of the evidence of eyewitness, has held that the Driver of the offending vehicle bearing Registration No.TN32-N-3061 belonging to the appellant Corporation was rash and negligent in causing

the said accident. Therefore, the appellant Corporation was held vicariously liable to pay the compensation. On the basis of Exs.P3, P4, and P6 to P8, the Tribunal has fixed a sum of Rs.4,500/- and Rs.9,021/- as monthly income respectively for the son and daughter. After deducting the personal and living expenses, awarded compensation of a sum of Rs.3,66,000/- for the death of the son and Rs.7,18,638/- for the death of the daughter, by applying appropriate multiplier. Challenging the awards, on the grounds of negligence and quantum, the Transport Corporation is on appeal.

3. Heard the submissions made on either side and perused the materials available on record.

4. A perusal of the FIR would clearly show that the accident had taken place on 24.12.2010, in which, three persons have suffered death. The Driver of the bus, drove it in a rash and negligent manner and caused the accident. P.W.2 is an eyewitness, who spoke clearly about the rashness and negligence of the driver in driving the bus. FIR was lodged immediately without any delay and there is no contra evidence to show that the rider of the motorcycle had contributed for the accident. In the absence of any contra evidence, the cogent evidence of P.W.1 and P.W.2 corroborated by the FIR, need to be believed and the finding of the Tribunal, on this aspect, cannot be faulted with and accordingly, is confirmed.

5. With regard to the quantum of compensation, the son of the claimant was carrying on the business of dry-cleaning. The claimant filed a lease agreement to show the running of the business. Even though Ex.P4 lease agreement was produced, the Tribunal did not rely on the same, as the authenticated copy of the same was not produced before it. However, considering the evidence of P.W.1 and nature of business carried on by the son, the Tribunal had fixed Rs.4,500/- as income per month. In fact, a dry-cleaner would be earning much more than that.

6. The Tribunal, on the basis of Ex.P6, salary certificate issued by the employer, after deducting ESI contribution and professional tax, has arrived at Rs.9,021/- per month, as the monthly salary of the daughter. There is no dispute with regard to deduction of personal and living expenses and application of multiplier in these cases. Therefore, the Tribunal had calculated the quantum of compensation conservatively and therefore, it does not require any interference. In such circumstances, I do not find any merit in the appeals preferred by the Transport Corporation.

7. Accordingly, both the Civil Miscellaneous Appeals stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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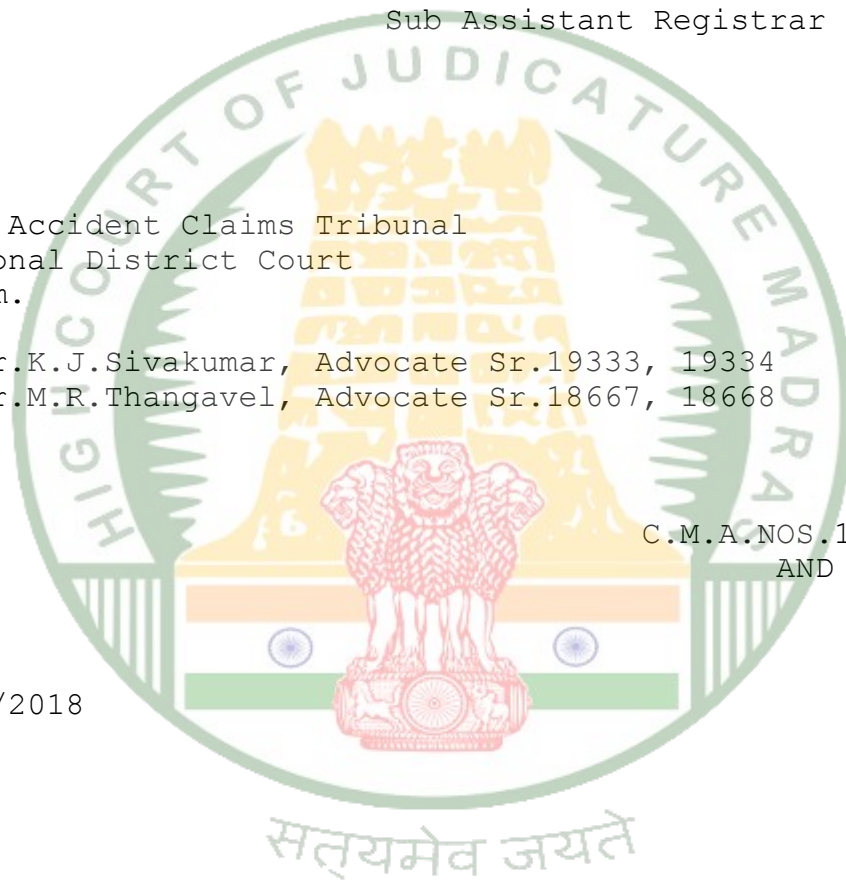
The Motor Accident Claims Tribunal
II Additional District Court
Tindivanam.

+2cc to Mr.K.J.Sivakumar, Advocate Sr.19333, 19334

+2cc to Mr.M.R.Thangavel, Advocate Sr.18667, 18668

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AND 479 OF 2018

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