

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 23.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No. 254 of 2017

&

C.M.P.No.1702 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
(Coimbatore Division) Ltd.,
Its Office at Chennimalai Road,
Erode-2

.. Appellant

Versus

1. Kalaiselvi
2. Nallammal
3. Duraisamy alias Kuppusamy
4. C.Thangaraj

.. Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 31.03.2015 made in M.C.O.P.No.224 of 2014 on the file of the Motor Accident Claims Tribunal (the Special District Judge), Erode.

For Appellant : Mr.K.J. Sivakumar

J U D G M E N T

Challenging the finding of negligence as well as quantum of compensation awarded by the Claims Tribunal in M.C.O.P.No.224 of 2014, dated 31.03.2015, the Transport Corporation has filed this Appeal.

2. The deceased, Saravanan, aged 34 years, doing rice business and earning a sum of Rs. 25,000/- per month, died in an accident that occurred on 30.12.2012. The dependents of the deceased, viz., his wife and parents have filed the claim petition, in M.C.O.P.No.224 of 2014, seeking compensation in a sum of Rs.20,00,000/-. The Tribunal, on consideration of oral and documentary evidence awarded a sum of Rs. 8,99,000/- (Rupees Eight Lakh Ninety Nine Thousand Only) as compensation, the break up of which are as hereunder :-

1. Loss of income (4500 X 12 X 16)	: Rs. 8,64,000/-
2. Loss of Consortium	: Rs. 10,000/-
3. Loss of estate	: Rs. 10,000/-
4. Funeral Expenses	: Rs. 10,000/-
5. Transportation	: Rs. 5,000/-

	Rs. 8,99,000/-

3. The learned counsel for the appellant submits that the accident occurred only due to the rash and negligence of the deceased but the Tribunal has fixed the entire negligence on the driver of the bus belonging to the appellant Corporation. He further submitted that the compensation awarded by the Claims Tribunal is excessive and the same needs to be reduced.

4. A perusal of the award passed by the Claims Tribunal reveals that the Tribunal has fixed the monthly income of the deceased at Rs.4,500/- per month and by adding 50% towards future prospects and further deducting one-third towards personal expenses, fixed the monthly contribution of the deceased to the family at Rs.4500/=. The Tribunal on the basis of Ex.P-6, post-mortem certificate, fixed the age of the deceased at 34 and by adopting the multiplier 16, quantified the loss of income at Rs.8,64,000/- (4500x12x16). Though it is contended by the learned counsel for the appellant that the compensation awarded under the head "loss of income" is excessive, however, the said contention cannot be accepted for the reason that though the income said to be earned by the deceased is Rs.25,000/=:, however, the accident having took place in the year 2012, the Tribunal has, very conservatively fixed the income of the deceased per month at Rs.4500/=:, which, by no stretch of imagination, could be termed as excessive or unreasonable. Based on Syed Sadiq case, if monthly income is fixed at Rs.6,500/- P.M. and awarding 40% Future prospective increase in income, the compensation to be awarded would be more. Further, the Tribunal has awarded only a sum of Rs.10,000/- towards "Loss of consortium", which is very meagre, considering the age of the 1st respondent, the wife of the deceased. However, this Court, in the absence of any appeal for enhancement, is not inclined to enhance the amount. Similarly, the amount awarded under the heads "Love and Affection" and "Funeral expenses" are also reasonable.

5. On the aspect of negligence, the Tribunal, taking into consideration Ex.P-1, FIR and the evidence of P.W.2, who was an eye witness to the occurrence, has held that the accident happened due to the rash and negligent driving by the driver of the bus and no evidence to the contrary has been adduced by the

appellant. In the absence of any contra evidence, the finding arrived at by the Tribunal is not liable to be interfered with.

6. For the reasons stated above, the appeal is dismissed confirming the judgment and decree passed by the Tribunal in M.C.O.P.No.224 of 2014, dated 31.03.2015. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

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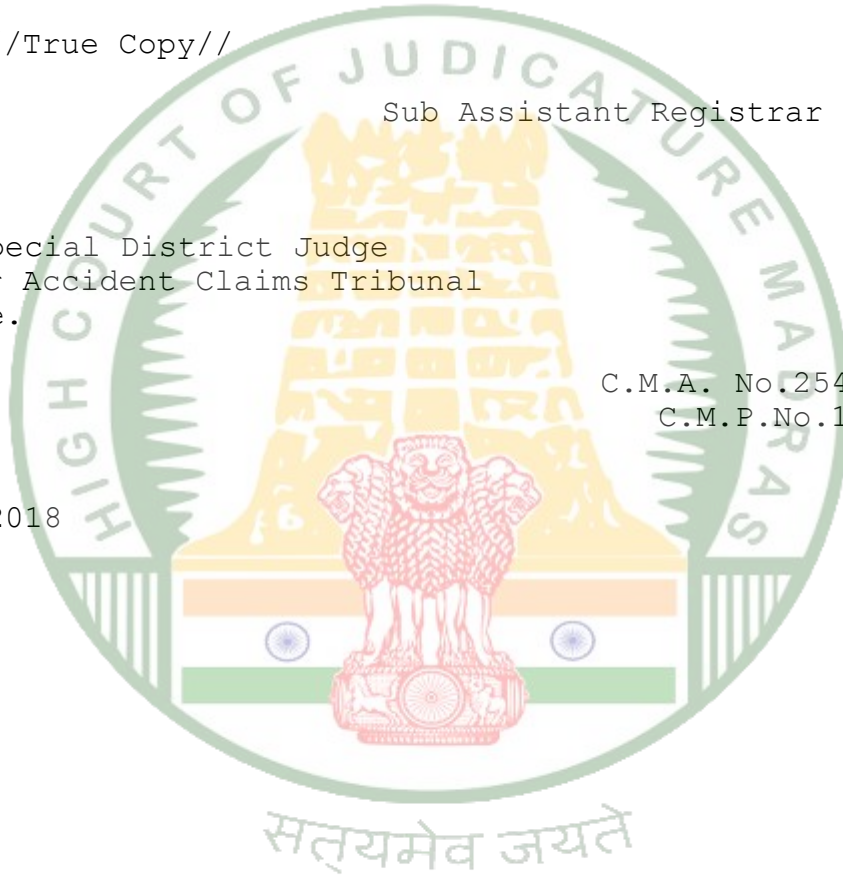
Sub Assistant Registrar

To

1. The Special District Judge
Motor Accident Claims Tribunal
Erode.

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