

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1043 of 2008

The Managing Director
Tamilnadu State Transport Corporation
Villupuram. Respondent Appellant

Vs

1.Murugesan
2.Kasinathan
3.Iyyappan petitioners/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Award made in MCOP.No.171 of 2007 dated 17.10.2007 on the file of the Motor Accident Claims Tribunal, (Fast Track Court No.2) Cuddalore.

For Appellant : Mr.V.Kasinathan

For Respondents : R1 to R3 - No Appearance

JUDGMENT

The instant appeal has been filed by the Transport Corporation challenging the Award dated 17.10.2007 passed by the Motor Accident Claims Tribunal (Additional District Judge cum Fast Track Court II) Cuddalore in MCOP.No.171 of 2007.

2. The brief facts leading to the filing of the instant appeal are as follows;

(i)Dhanalakshmi died in an accident on 15.1.2005 caused by a bus bearing Registration TN.32.N.0673 owned by the appellant Transport Corporation.

(ii) The dependents of the deceased Dhanalakshmi namely her husband and two children who are the respondents in this appeal filed a compensation claim for Rs.10 lakhs before the Motor Accident Claims Tribunal in MCOP.No.171 of 2007 for the death of Dhanalakshmi, as a result of the accident caused by the bus owned by the appellant Transport Corporation.

(iii) The Tribunal, by its Award dated 17.10.2007 directed the appellant to pay a sum of Rs.3,22,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of payment.

(iv) Aggrieved by the Award dated 17.10.2007, passed in MCOP.No.171 of 2007, the appellant has filed the instant appeal.

3. Heard Mr.V. Kasinathan learned counsel for the appellant.

4. Till date, notice has not been served on the 2nd and 3rd respondents. Since the appeal relates to the year 2008, and this Court is going to confirm the Award passed by the Tribunal, there is no necessity to serve notice on the respondents.

5. According to the learned counsel for the appellant, the primary ground for challenge in the instant appeal is that the accident happened only due to the negligence of the deceased Dhanalakshmi. Further, the appellant would contend that the monthly income of the deceased fixed at Rs.3,000/- by the tribunal is highly excessive and untenable in law. Further, the multiplier adopted by the tribunal at 13 for the deceased who is aged 47 years is not in accordance with law.

6. This Court, after considering the materials available on record and after examining the impugned award and after hearing the submissions of the learned counsel for the appellant observes the following;

(a) There is a clear finding given by the tribunal under the impugned award that only due to the rash and negligent driving by the driver of the bus, the accident has happened resulting in the death of the deceased.

(b) The accident happened in the year 2005 and the tribunal has fixed the monthly salary of the deceased, who was a milk vendor at Rs.3,000/- which according to this Court, is a reasonable sum.

(c) The tribunal has rightly applied the multiplier of 13 following the judgment of the Honourable Supreme Court in the case of (Sarla Verma and others Vs. Delhi Transport Corporation and another) reported in 2009 ACJ 1298 .

(d)The award of compensation of Rs.5,000/- each towards funeral expenses and love and affection is also just compensation.

7. Therefore this Court is of the considered view that there is no merit in the instant appeal. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. The Appellant Transport Corporation is directed to deposit

the entire Award amount along with interest as awarded by tribunal, if not 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 respondents are directed to withdraw their respective shares on making appropriate application. Consequently, connected M.P.No.1 of 2008 is closed.

Sd/-
Assistant Registrar (CS v)

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Sub Assistant Registrar

msr

To,

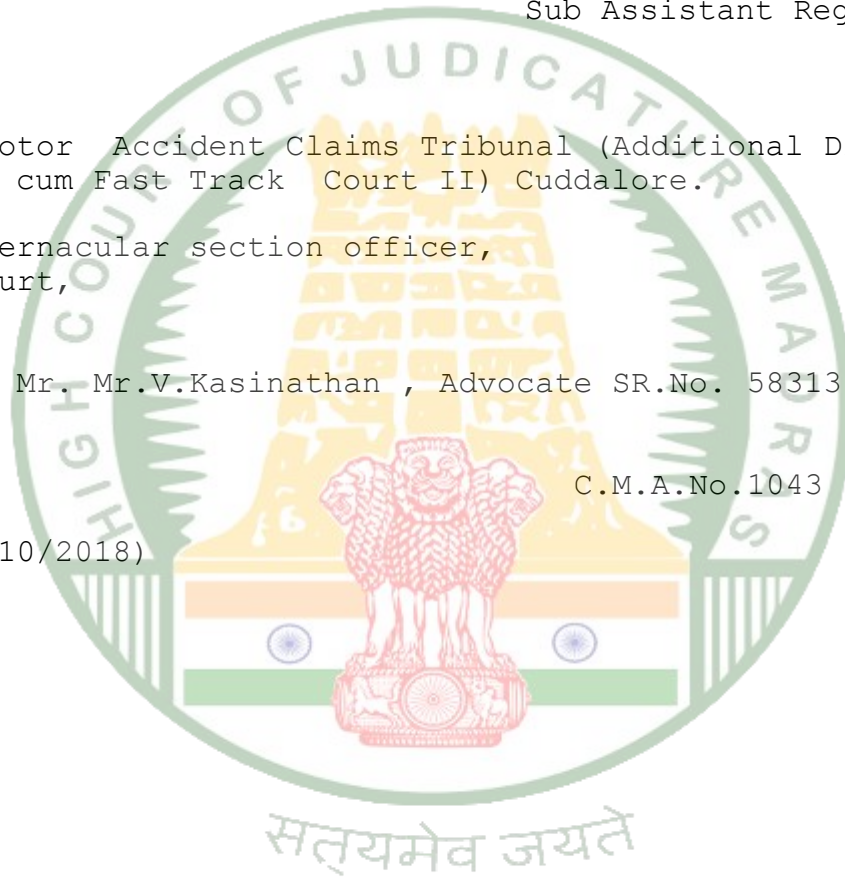
1.The Motor Accident Claims Tribunal (Additional District Judge cum Fast Track Court II) Cuddalore.

2.The vernacular section officer,
High court,
Madras.

+1cc to Mr. Mr.V.Kasinathan , Advocate SR.No. 58313

C.M.A.No.1043 of 2008

ASK(05/10/2018)



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