

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE
C.M.A.No.1097 of 2008
and M.P.No. 1 of 2008

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
Rangapuram, Vellore.

.... Appellant/Respondent

Vs

1.Duraisamy
2.Kasiammal

.... Respondents/Petitioners

PRAYER : Civil Miscellaneous Appeal filed against the Judgment and decree dated 09.03.2007 made in M.C.O.P.No.192 of 2004 on the file of the Motor Vehicles Accident Claims Tribunal, Sub Court Arni.

For Appellant : Mr.V.Ramesh

For Respondents: No appearance

J U D G M E N T

Aggrieved over the award passed by the Motor Vehicles Claims Tribunal, Sub Court Arni in MCOP. No.192 of 2004 dated 09.03.2007, the appellant herein, who is the respondent in the above said MCOP, has filed this Appeal.

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

On 11.09.2004 at about 7:50 p.m. the deceased (Narayanan) was riding on his double bullock cart with load of sand on the left side of the road at Arni to Chetpet road, opposite to Nataraja Mudaliar Pump set at Nesal Junction road within Arni Taluk Police station limit. At that time the appellant's bus bearing Reg.No.TN-23-N-1-28, Route No.15 came in a rash and negligent manner with high speed without following any traffic rules and hit behind the bullock cart. Due to the speedy hit, the deceased was thrown out on the road and sustained grievous injuries all over his body and after few days he died. The respondent made a claim before the Tribunal for a sum of Rs.5,00,000/-. The Tribunal by its judgment and decree dated 09.03.2007 in MCOP.No.192 of 2004 awarded compensation of Rs.3,14,000/- to the respondent together with interest at 7.5% per annum from the date of claim till the date of realisation. Aggrieved by the award passed by the Tribunal, the instant appeal has been filed by the appellant/Transport Corporation.

3. Heard Mr. V.Ramesh, learned counsel appearing for the appellant. Since the appeal relates to the year 2008, and this Court is going to confirm the award, there is no necessity to serve notice on the respondents.

4. The Tribunal, after perusing the documents and submissions made by the respective parties, decided the claim petition in favour of the respondent as per the impugned award. The Tribunal held that the accident in question had occurred only due to the rash and negligent driving of the bus belonging to the appellant Corporation and as a result of the same, the victim sustained injuries and died. The Tribunal also held that the claimants are entitled to the compensation and determined a sum of Rs.3,14,000/- as compensation.

5. The learned counsel appearing for the appellant/corporation, apart from denying the negligence on the part of its driver, also contended that the award of Rs.3,14,000/- is highly excessive.

6. The Tribunal, based on the oral evidence let in on the side of claimants that the driver of the bus drove the vehicle rashly and negligently and the documentary evidence viz., Ex.P-1, post mortem certificate and Ex.P.2 FIR, has rightly concluded that the driver of the bus is responsible for the accident and hence, the appellant Transport Corporation is liable to pay compensation to the claimants for the death of Narayanan in the accident. Therefore, this Court does not find any infirmity in the order of the Tribunal.

7. While coming to the question of quantum, the Tribunal, based on the evidence, oral and documentary, found that the deceased was 18 years old at the time of accident, was working as a daily coolie, earning a sum of Rs.3,000/- per month and fixed his contribution to the family at Rs.2000/- per month, and adopting the multiplier 13, arrived the compensation at Rs.3,12,000/- = $(2,000 \times 12 \times 13)$. Besides, the Tribunal awarded Rs.2000/- towards funeral expenses. In all, the Tribunal awarded a sum of Rs.3,14,000/- which, in the considered view of this Court, cannot be stated to be high or excessive.

8. This Court is therefore of the considered view that the amount awarded by the Tribunal is just and proper and the same is based on the oral and documentary evidence. Hence the appeal is dismissed. No costs. Connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CCC)

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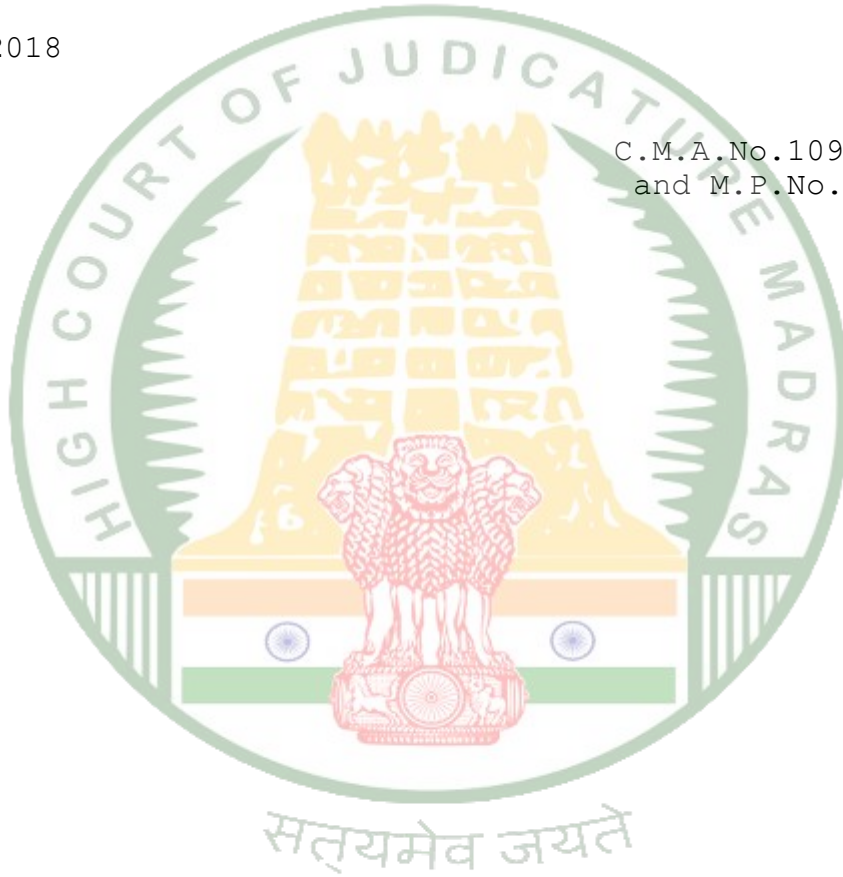
To

1.The Sub Judge,
The Motor Vehicles Accident Claims Tribunal,
Sub Court Arni.

2.The Section Officer,
VR Section,
High Court, Madras (2 copies)

BR(CO)
sm:13.11.2018

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