

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	08.12.2017
Pronounced on	13.06.2018

C O R A M

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.1447 of 2008

and

M.P. No. 1 of 2008

The Managing Director,
State Express Transport Corporation Ltd.,
Chennai -2.

... Appellant /
Respondent

Vs.

1.Mathurambal
2.Kothandapani
3.Poongavanam
4.Chitra
5.Manikandan

... Respondents /
Petitioners

PRAYER:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgement and decree made in M.A.C.T.O.P. No.147 of 2004 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate) at Villupuram dated 23.09.2005.

For Appellant : Mr.M.Krishnamoorthy

For Respondents : No appearance

JUDGMENT

The appellant herein is the Managing Director of the State Express Transport Corporation Limited, who has preferred this Civil Miscellaneous Appeal against the judgment and decree passed in M.A.C.T.O.P. No.147 of 2004 dated 23.09.2005 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate) at Villupuram.

2.The brief facts of the Claim Application are as follows:

On 07.04.2000 at 11.15 pm, while the deceased Manoharan @ Iyyanar was proceeding by bicycle, in Madapattu, G.S.T Road, the State Express Corporation bus, bearing Registration No.TN-01-N-6505, which was plying between Trichy and Chennai, dashed against the deceased Manoharan @ Iyyanar. Due to the said accident, the said Manoharan @ Ayyanar, who sustained severe injuries, was taken to Villupuram Government Hospital and he was taken to JIPMER Hospital, Puducherry, for further treatment, but ultimately succumbed to injuries on 08.04.2000. Thus, the claimants, who are wife, parents, sister and brother of the deceased, have filed the claim petition, claiming compensation of Rs.7,00,000/- (Rupees Seven Lakhs only).

3. The documents have been filed on the side of the respondents/claimants, viz., FIR and the Report of the Motor Vehicles Inspector and the Post Mortem Certificate. On the side of the claimant, the second respondent was examined as PW1 and on the side of the appellant/respondent, no document has been marked, but one witness was examined. The Tribunal, after assessing the evidence and documents filed by both sides, awarded a sum of Rs.2,76,200/- (Two Lakhs Seventy Thousand and Two Hundred only) as compensation to the claimants.

4. The Tribunal, based on the evidence and documents, has observed that the accident had occurred only due to the rash and negligent driving of the driver of the Corporation bus and fixed the liability on the appellant/respondent to pay compensation. The Tribunal also taken into consideration the age of the deceased as 25, based on the Post Mortem Certificate and also fixed his monthly income at Rs.1,800/-, taking into consideration the occupation of the deceased as Vegetable Seller. The multiplier of the age of the deceased has been fixed as '18'. The monthly loss of income has been arrived by deducting the personal expenses of the deceased at Rs.600/-. The loss of income has been arrived by the Tribunal by fixing the age of the deceased as 25 and by applying the multiplier of 18, the compensation amount was calculated at $(Rs.1,200 \times 12 \times 18) = Rs.2,59,200/-$. Further, awarding a sum of Rs.2,000/- towards funeral expenses and a sum of Rs.15,000/- towards consortium to the first respondent, the total amount has been awarded at Rs.2,76,200/-.

5. Aggrieved against the award, the appellant / Transport Corporation has preferred this appeal.

6. The contention of the learned counsel appearing for the appellant is that the deceased himself was solely responsible for the accident, who suddenly crossed the road, thereby

contributing for accident and hence the entire liability cannot be fastened on the appellant is not proper; the age of the deceased, the income determined by the Tribunal and monthly income at Rs.1,800/- are all excessive, is the contention of the learned counsel for the appellant.

7. Only the Driver of the bus has deposed before the Tribunal that the deceased had contributed to the accident by suddenly crossing the road. But no eyewitness was examined. Hence, the finding of the Tribunal in fixing liability on the driver of the bus is proper. While awarding the compensation the Tribunal has properly fixed the age of the deceased as 25 based on the Post Mortem Certificate. The annual income determined by the Tribunal is not on the higher side. The sum award under the head consortium and funeral expenses are quite reasonable and fair. Hence, the appeal claiming the award as excessive is liable to be dismissed.

8. In the result, this Civil Miscellaneous Appeal is dismissed, by conforming the Judgment and decree passed by the Motor Accidents Claims Tribunal (Chief Judicial Magistrate) at Villupuram in MCOP No.147 of 2004 dated 23.09.2005. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

9. The appellant is directed to deposit the amount of compensation, as awarded by the Tribunal, along with interest at 9% per annum, from the date of petition till the date of deposit, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the claimants / respondents are entitled to share the compensation amount, as per the ratio of apportionment made by the Claims Tribunal.

सत्यमेव जयते Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rkp

To

1. The Motor Accidents Claims Tribunal
(Chief Judicial Magistrate),
Villupuram.

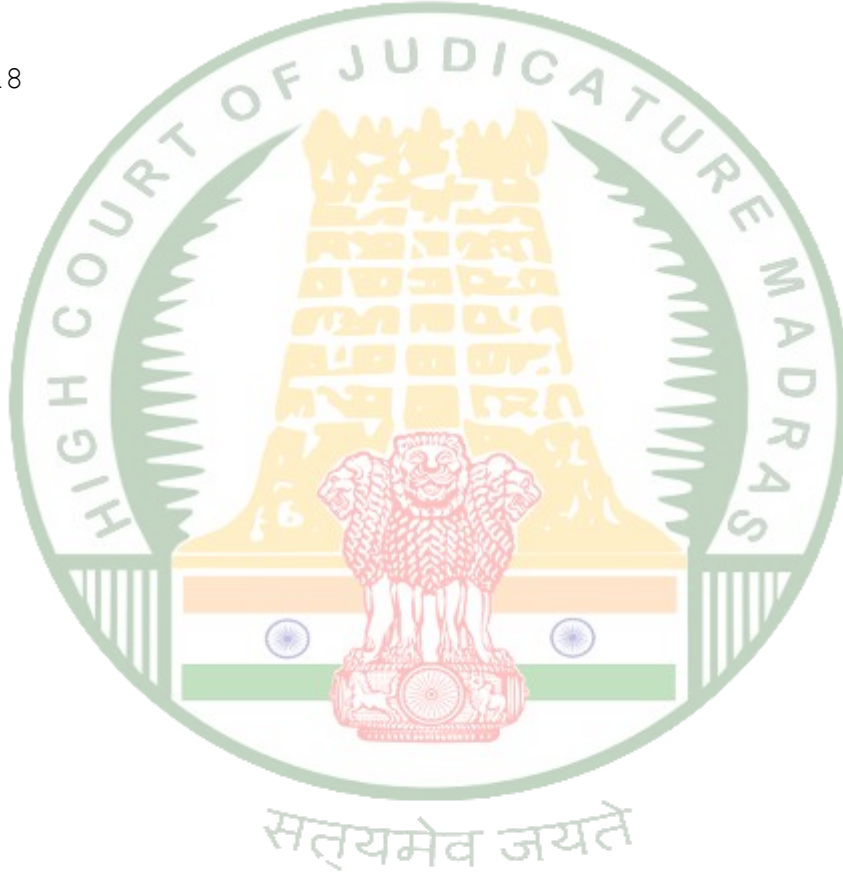
Copy To

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

+1cc to Mr.M.Krishnamoorthy, Advocate, S.R.No.37158

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