

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3075 of 2010

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Division - II, Chennimalai Road,
Erode ...Appellant/Respondent

Vs

1. Sumathy
2. Minor Naveenchandar,
represented by Sumathi (Mother guardian)
3. Minor Subashini,
represented by mother guardian Sumathy
4. Nachiammal ...Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award passed by the Motor Accidents Claims Tribunal, Principal Sub Judge, Tiruppur in M.C.O.P.No.1511 of 2007 dated 30.07.2009.

For Appellant : Mr.K.J. Sivakumar

For Respondents : Mr.MA.P.Thangavel
for R1 to R4

JUDGMENT

The instant appeal has been filed by the Transport Corporation challenging the Award dated 30.07.2009 passed by the Motor Accidents Claims Tribunal, Principal Sub Judge, Thiruppur in M.C.O.P.No.1511 of 2007.

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

(i) One Kumaraswamy died, as a result of an accident caused by a bus bearing Registration No.TN-33-N-1758 owned by the Appellant Transport Corporation. The dependents of the deceased Kumaraswamy who are the respondents in this appeal have preferred a claim before the Motor Accidents Claims Tribunal in M.C.O.P.No.1511 of 2007 seeking compensation of RS.20 lakhs for the death of Kumaraswamy.

(ii) The Motor accidents Claims Tribunal, by its award dated 30.07.2009 in M.C.O.P. No.1511 of 2007 directed the Appellant to pay the respondents a sum of Rs.8,81,000/- together with interest at 7.5% per annum from the date of claim till the date of realisation.

(iii) Aggrieved by the Award dated 30.07.2009 passed by the Tribunal, the instant appeal has been filed by the Transport Corporation.

3. Heard Mr.K.J.Sivakumar, learned Counsel for the Appellant and Mr.MA.P.Thangavel, learned Counsel for the respondents.

4. According to the learned Counsel for the Appellant, the primary ground for challenge in the instant appeal is that the Tribunal has erroneously fixed the monthly salary of the deceased at the time of accident at Rs.7,000/- and has also erroneously awarded Rs.30,000/- towards loss of love and affection to each of the dependents of the deceased. The deceased was aged 45 years at the time of the accident and he was a Manager of Paps Apparels, a private concern earning a monthly salary of Rs.8000/-.

5. Even though the respondents had claimed that the deceased was earning a monthly salary of Rs.8000/- at the time of accident, the Tribunal has fixed the monthly salary of the deceased at the time of accident only at Rs.7000/-. The Tribunal has also deducted 1/4th towards personal expenses considering the fact that there are four dependents for the deceased. The Tribunal has also awarded Rs.10,000/- towards loss of consortium, Rs.10,000/- towards loss of love and affection for the 1st respondent, Rs.30,000/- towards loss of love and affection for the 2nd and 3rd respondents, Rs.6000/- towards loss of love and affection towards 4th respondent, Rs.5,000/- towards funeral expenses and Rs.1000/- towards transportation cost.

6. Even though 14 multiplier was adopted by the Tribunal, since no loss of future prospects was awarded to the respondents, 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 and the Constitutional Bench judgment of the Hon'ble Supreme Court reported in the case of National Insurance Company Limited versus Pranay Sethi and others reported in 2017(2) TN MAC 609(SC), this Court is of the considered view that there is no infirmity in the Award passed by the Tribunal. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.

7. The Appellant is directed to deposit the entire award amount, if not already deposited, within a period of four

weeks from the date of receipt of a copy of this order. On such amount being deposited, the respondents 1 to 4 are permitted to withdraw their respective shares along with accrued interest lying to the credit of M.C.O.P as per the ratio apportioned by the Tribunal on filing an appropriate application. Consequently, the connected M.P.No.1 of 2010 is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

arb/msr

To

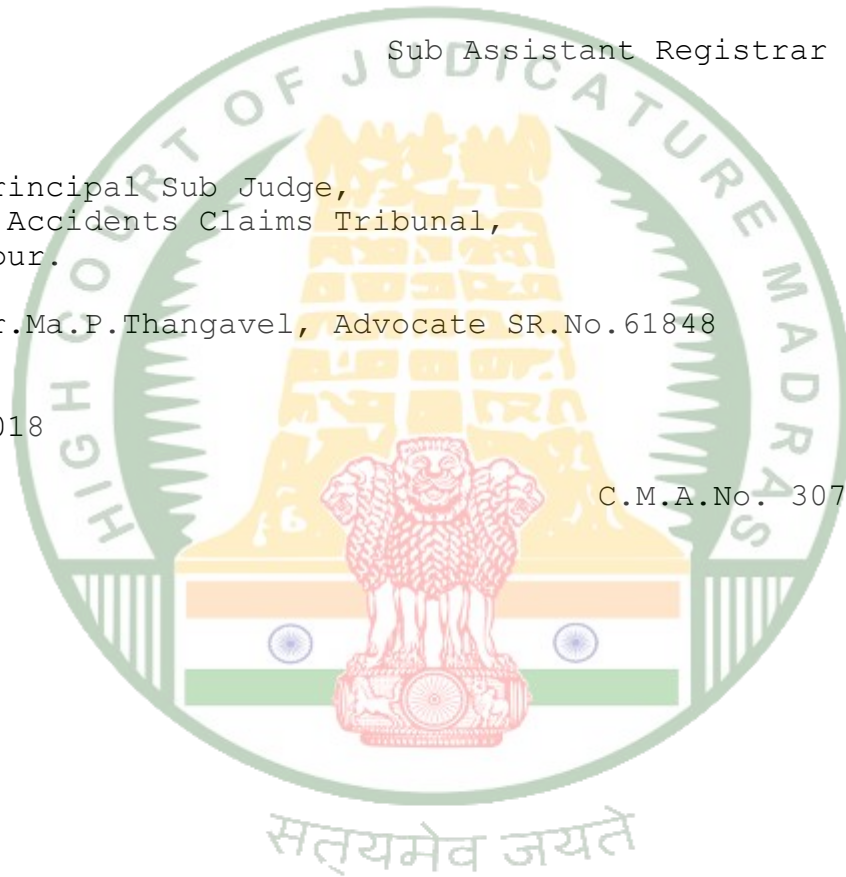
1. The Principal Sub Judge,
Motor Accidents Claims Tribunal,
Tiruppur.

+1cc to Mr.Ma.P.Thangavel, Advocate SR.No.61848

VBA (Co)

sm:4.10.2018

C.M.A.No. 3075 of 2010



WEB COPY