

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

C.M.A.No.504 of 2009 and
M.P.No.1 of 2009

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

...Appellant

vs.

1.Gowri
2.Smt.Sumathi
3.Shankar
4.Kanchana
5.Chithra

...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 28.09.2007, in M.C.O.P.No. 215 of 2007, on the file of the Motor Vehicles Accidents Claims Tribunal, Principal District Judge, Dharmapuri.

For Appellant	: Mr.S.Sairaman
For R1	:No appearance
For R2 to R5	:Mr.K.Prasanna for Mr.M.Sriram

JUDGMENT

This Civil Miscellaneous Appeal is filed by the Tamil Nadu State Transport Corporation, challenging, the Judgment and decree passed in M.C.O.P.No. 215 of 2007 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Dharmapuri at Krishnagiri.

2. Brief case of the respondents/claimants is as follows:

(i) On 01.01.2006, at about 7.45 a.m., Rajagopal was riding his Super XL TVS 50 bearing Registration No.TN 29 K 9617 to go to his office at Vengalapuram. He was proceeding on the left side of the road, slowly and cautiously, observing the traffic rules and sounding horn. When he was thus proceeding in Tirupattur to Thiruvannamalai road and nearing Sundaram Mahal, the driver of appellant/Transport Corporation Bus bearing Registration No.TN 23 N 1 1017 drove the said vehicle in an rash, reckless and negligent manner and in an uncontrollable speed, without observing the traffic rules and sounding horn, came in the opposite direction and dashed the TVS 50, which was proceeding on the left side of the road and caused the accident.

(ii) Due to the impact, the said Rajagopal fell down and the bus ran over his right leg and also on the TVS 50. Immediately, after the accident, he was taken to the Government Hospital, Tirupattur and after first aid treatment, he was referred to the Government Hospital at Vellore for further treatment, where he was given intensive treatment, but inspite of treatment, he died in the Government Hospital, Vellore itself. Post-mortem was conducted at the Government Hospital, Vellore on 02.01.2006.

3. The learned Tribunal, after analysing the evidence on record, awarded a compensation of Rs.9,66,000/- together with interest at the rate of 7.5% per annum to the respondents/claimants. Aggrieved over the quantum of compensation awarded by the Tribunal, the Tamil Nadu State Transport Corporation has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Heard both sides.

5. After perusing the evidence of P.W.2 and Exhibits P1,P2 and P3, the Tribunal has rightly come to the conclusion that the accident had taken place due to the rash and negligent driving of the driver of the

Transport Corporation Bus and also held that non-impleading the owner of the motorcycle, in which, the deceased drove or its Insurance Company is not fatal to the case and accordingly, held that the accident occurred due to rash and negligence on the part of the driver of the Transport Corporation Bus and in the absence of any contra evidence, the same is hereby confirmed.

6. On the point of quantum, this Court heard the submissions of both the learned counsel.

7. Based upon the evidence of P.W.2, Exhibit P5-Original pay slip and also the certificates and salary particulars of the deceased Rajagopal which was marked as Exhibit P6, the Tribunal has taken the monthly income of the deceased as Rs.12,932/- after deducting the Professional Tax and Income Tax respectively i.e., Rs.1,55,184/- per annum.

8. Since the deceased was aged 55 years at the time of accident, the Tribunal adopted multiplier '11' and calculated the loss of dependency at Rs.17,07,024/- and after deducting professional tax for 11 years, the Tribunal calculated the loss of dependency at Rs.14,26,524/-. Deducting 1/3rd towards personal expenses, the

Tribunal awarded compensation under the head loss of dependency at Rs.9,51,016/-. Adding conventional damages, the Tribunal awarded total compensation of Rs.9,66,016/- which in my considered view is reasonable and just compensation and there is no ground to interfere with the same. Therefore, the award of the Tribunal is liable to be confirmed.

9. The learned counsel for the appellant submitted that pursuant to the award, the appellant had deposited 50% of the compensation, which fact has not been denied by the respondents.

10. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs.

Consequently, the connected Miscellaneous Petition is closed.

(ii) The order passed by the Tribunal is upheld.

(iii) The present appellant - Tamil Nadu State Transport

Corporation is directed to deposit the balance compensation amount along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No. 215 of 2007

dated 28.09.2007, on the file of the Motor Vehicles Accidents Claims Tribunal, Principal District Judge, Dharmapuri within a period of twelve weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the respondents/claimants are permitted to withdraw the amount as apportioned by the Tribunal after following the due process of law.

26.04.2019

Index : Yes/No
Speaking/non-speaking order
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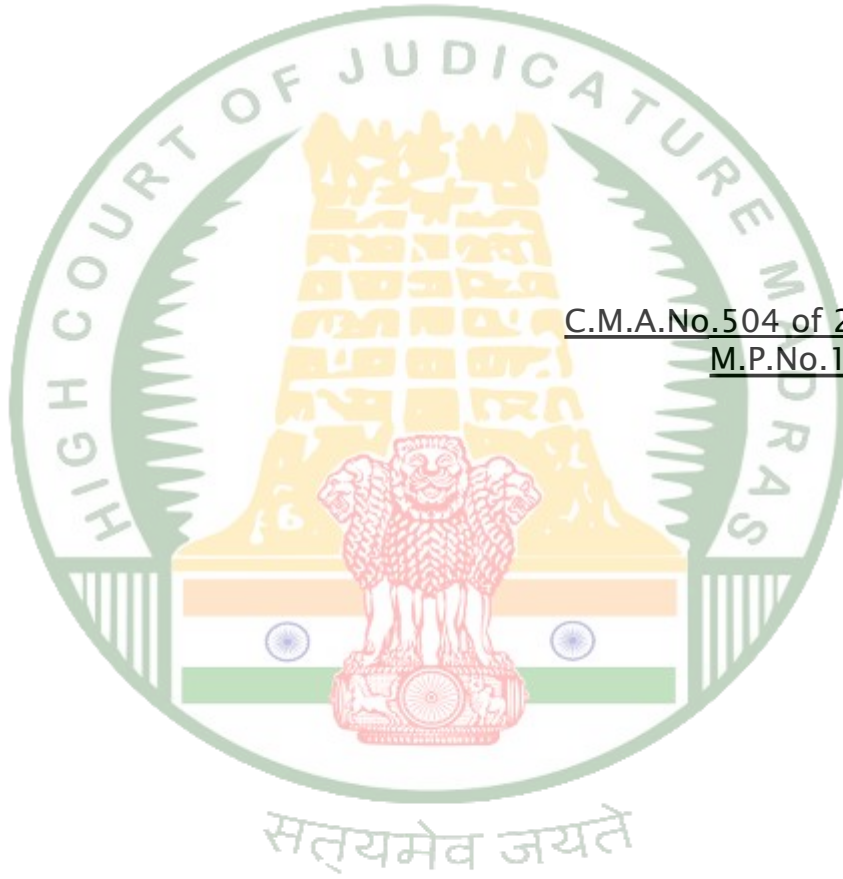
To

1. The Motor Vehicles Accidents Claims Tribunal,
Principal District Judge, Dharmapuri.
2. The Section Officer,
V.R.Section, High Court, Madras.

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RMT.TEEKA RAMAN, J.

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