

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2873 of 2007
and M.P.No.3 of 2007

State Express Transport Corporation Ltd.,
rep.by its Managing Director,
Thiruvalluvar House,
Pallavan Salai, Chennai-2. ... Appellant/Respondent

Vs

1.Pattammal
2.Selvarani
3.Kavitha
4.Sangeetha
5.Poonguzhali, Minor
6.Prabavathi, Minor

(Minor respondents 5 and 6
rep.by their mother and next
friend, Selvarani, the second
respondent herein). ... Respondents

Appeal under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 14.06.2005 made in MACTOP No.52 of
1999 on the file of the Motor Accidents Claims Tribunal
(Subordinate Judge) at Panruti.

For Appellant : Mr.M.Krishnamoorthy

For Respondents : Mr.K.Moorthy for R2 to R6

WEB COPY
JUDGMENT

This appeal is preferred by the Transport Corporation
against the award of a sum of Rs.7,00,000/- towards compensation
to the respondents 1 to 6, for the death of the second
respondent's husband in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 02.11.1998, the second respondent's husband, by name Ramamoorthy was driving his car bearing Reg.No.TN-32-1807 towards Mayiladuthurai from Panruti. When the car was nearing Sengamedu, the bus bearing Reg.No.TN-01-N-6115 belonging to the appellant Transport Corporation, came in a rash and negligent manner and dashed against the car which the second respondent's husband was driving. Due to the said impact, the second respondent's husband died on the spot. The legal heirs of the deceased filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal arrived at the total compensation at Rs.7,00,000/- with interest at the rate of 9% p.a., from the date of petition.

3.Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant Transport Corporation has submitted that the Tribunal has erred in holding that the appellant's driver was also rash and negligent in driving the bus. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.The learned counsel for the claimants has submitted that the Tribunal has properly considered the evidence and materials available on record and has arrived at the compensation, which is just, fair and reasonable and hence the same need not be interfered with by this Court.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.P.W.2-Banumathi was examined as eye-witness to the occurrence, before the Tribunal. She deposed before the Tribunal that at the relevant point of time, she boarded the Ambassador Car bearing Reg.No.TN-32-1807 which was driven by its driver / owner, the deceased and when the car reached Sengamedu, the bus belonging to the appellant Transport Corporation came in a rash and negligent manner from the opposite direction and dashed against the said car and due to the said impact, the deceased died on the spot. Ex.P1 is the First Information Report, from which it is seen that there was head-on collision between the bus and the car. Considering the materials and evidence available on record, the Tribunal came to the conclusion that both the deceased as well as the driver of the bus were responsible for the accident, which finding this Court is not inclined to interfere.

8. With regard to the compensation awarded by the Tribunal, the claimants claimed before the Tribunal that the deceased was a car driver as well as a farmer and he was getting income from those two avenues. Considering the evidence available on record, the Tribunal came to the conclusion that the deceased would have earned Rs.500/- per day as a car driver; he would have certainly worked 25 days in a month and accordingly calculated the monthly income at Rs.12,500/- in respect of driving alone. Since the deceased was also a farmer, the Tribunal came to the conclusion that he would have earned a sum of Rs.30,000/- per year as agriculturist. That means, he would have earned a sum of Rs.2,500/- per month towards agriculture and thus, he would have earned a total monthly income of Rs.15,000/-. Thereafter, the Tribunal arrived at the annual income at Rs.1,80,000/-, deducted 1/3rd towards personal expenses of the deceased, adopted the multiplier of 11, and arrived at the contribution of the deceased to the family at Rs.13,20,000/-. The Tribunal has also awarded a sum of Rs.2,000/- towards funeral expenses, Rs.13,000/- towards loss of consortium and Rs.65,000/- towards loss of love and affection, thus totalling to Rs.14,00,000/- and thereafter fixed the liability on the part of the appellant Transport Corporation at 50% and directed the appellant Transport Corporation to pay a sum of Rs.7,00,000/- with interest at the rate of 9% p.a., from the date of petition. The Tribunal has correctly considered the materials and evidence, adopted the correct multiplier and arrived at the compensation towards contribution of the deceased to the family. The amounts awarded towards other heads are also very reasonable and hence the same are confirmed.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Transport Corporation is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. The fifth and sixth respondents, who were minors at the time of accident, would have attained majority by now. Hence on such deposit being made, all the claimants are permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

KM

To

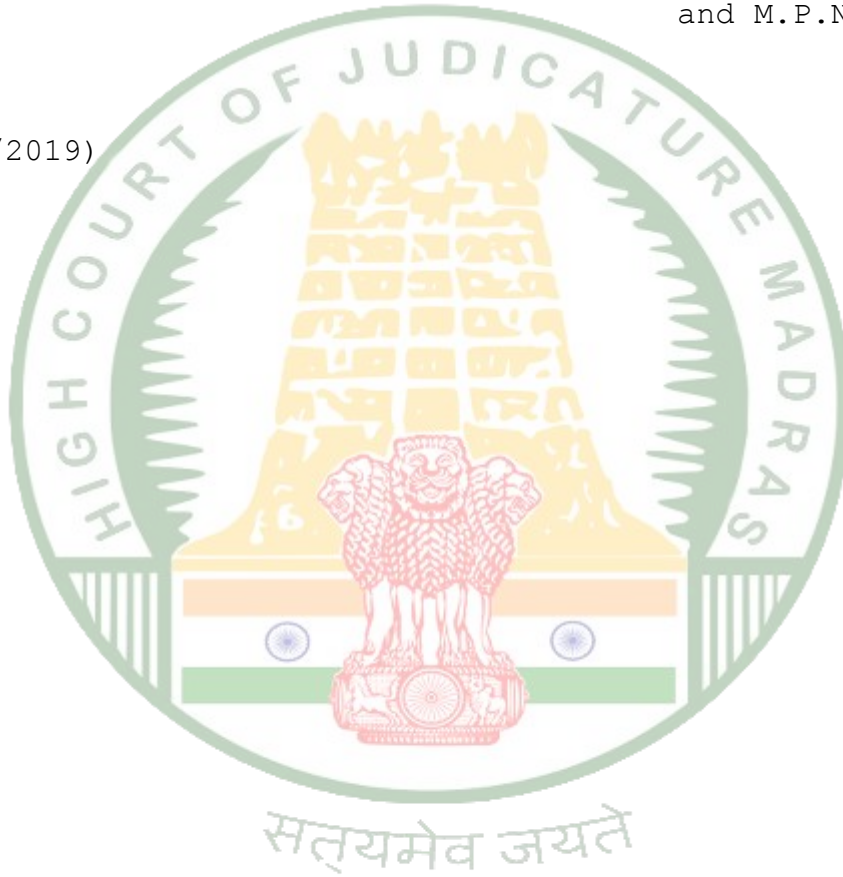
1.The Motor Accidents Claims Tribunal
(Subordinate Judge) at Panruti.

2.The Section Officer,
VR Section, Madras High Court.

+lcc to Mr.SR.Sundar, Advocate SR.No.48486

C.M.A.No.2873 of 2007
and M.P.No.3 of 2007

MR(CO)
GMY(18/10/2019)



WEB COPY