

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.3150 OF 2005

AND

C.M.P.NO.16270 OF 2005

The Managing Director

Tamilnadu State Transport Corporation

Coimbatore Division-I, Ltd.,

37, Mettupalayam High Road,

Coimbatore-43.

... Appellant/2nd Respondent

Vs.

1.Gopal

... 1st Respondent/1st Petitioner

2.Salammal

... 2nd Respondent/2nd Petitioner

3.Kandasamy

... 3rd Respondent/1st Respondent

(No relief claimed against 3rd respondent)

PRAYER:

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 29.11.2002 made in M.C.O.P.No.776 of 1996 on the file of Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.IV, Coimbatore at Tiruppoor.

For Appellant : Mr.N.Anand

For R1 and R2 : Mr.N.S.Siva Kumar

WEB COPY

J U D G M E N T

This appeal is preferred by the Transport Corporation against the award of a sum of Rs.1,50,000/- towards compensation to the respondents 1 and 2 for the death of one Saravanan, who died in a motor vehicle accident.

Brief facts:-

2. On 13.04.1996 at about 11.30 a.m., the deceased Saravanan was riding his bicycle at Tirupur to Avinashi Main Road and at that time, the appellant's bus bearing Registration No. TN-38-N-1021 came from south to north direction, in a rash and negligent manner and dashed against the deceased. Due to the said impact, the deceased sustained fatal injuries. Stating so, the legal heirs of the deceased filed a claim petition claiming a sum of Rs.2,00,000/- as compensation.

3. Challenging the same, the appellant Transport Corporation has filed this appeal.

4. The learned counsel for the appellant submitted that the deceased himself invited the accident and he contributed to the same. However, the Tribunal erred in fixing the liability on the appellant Transport Corporation alone. He further submitted that the Tribunal ought not to have awarded a consolidated sum of Rs.1,50,000/-, on a rough and ready basis, which is incorrect.

5. Per contra, the learned counsel for the respondents/claimants submitted that the award passed by the Tribunal is based on the settled principles of law and is perfectly justified and hence, no interference is required.

6. This Court considered the rival submissions and perused the materials available on record.

7. As regards the finding on negligence, Ex.P1/F.I.R was marked to establish the factum of accident. P.W.2/eyewitness to the accident, deposed about the manner of the accident. To rebut the same, RW1/ driver of the bus was examined on the side of the appellant Transport Corporation, who asserted that the deceased rode the cycle and dashed against the bus and thereby invited the accident. However, the Tribunal has rejected the evidence of RW1 and accepted the evidence of PW2 on the ground that the FIR was lodged only against the driver of the bus and accordingly, come to a conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus, which this Court is not inclined to interfere.

8. With regard to the quantum of compensation, the claimants stated in the claim petition that the deceased was 14 years old boy and was earning a sum of Rs.2,000/- by working in a textile factory, but they have not produced any specific document to prove the income of the deceased. However, the Tribunal has awarded a consolidated sum of Rs.1,50,000/- as compensation to the parents of the deceased, on a rough and ready basis.

9. At this juncture, it is apt to refer to the observation of the Supreme Court in M.S. Grewal vs. Deep Chand Sood, [(2001) 8 SCC 151], which reads as follows:

"... in assessing damages, all relevant materials should and ought always to be placed before the court so as to enable the court to come to a conclusion in the matter of affectation of pecuniary benefit by reason of the unfortunate death. Though mathematical nicety is not required but a rough and ready estimate can be had from the records claiming damages since award of damages cannot be had without any material evidence: whereas one party is to be compensated, the other party is to compensate and as such there must always be some materials available therefore. It is not a fanciful item of compensation but it is on legitimate expectation of loss of pecuniary benefits."

10. In the light of the aforesaid observation and also having regard to the fact that the parents of the deceased have lost their only son at the tender age of 14 years and they might have had a lot of expectations in their son as well, the consolidated award of Rs. 1,50,000/- by the Tribunal on rough and ready method, is just and reasonable and the same warrants no interference at the hands of this Court.

11. Thus, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

12. The appellant/Transport Corporation is directed to deposit the compensation amount, as awarded by the Claims Tribunal, along with interest and costs, 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 Tribunal shall transfer the amount to the Savings Bank Accounts of the injured/claimants, through RTGS, as per the ratio of apportionment made by the Tribunal, within one week thereafter.

Sd/-
Assistant Registrar (CO-MDU)

//True Copy//

Sub Assistant Registrar

gbi

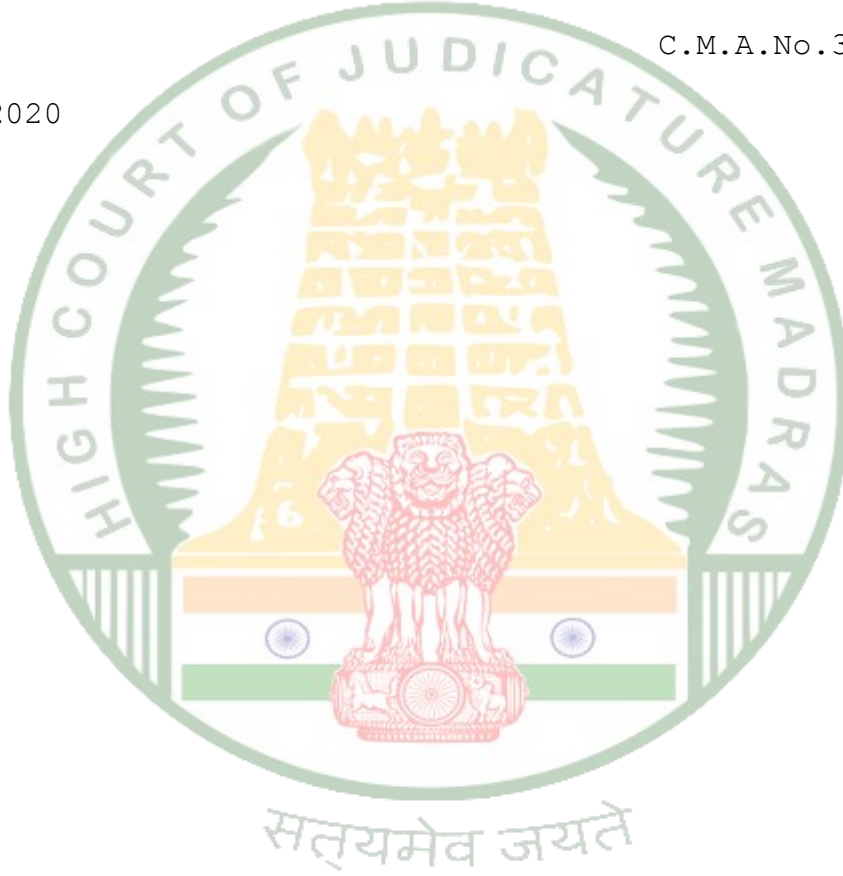
To

1. The Additional District Judge,
Motor Accidents Claims Tribunal,
Fast Track Court No.IV,
Coimbatore, Tiruppoor.
2. The Section Officer,
V.R.Section, High Court,
Chennai.

+lcc to Mr.N.Anand, Advocate, S.R.No.55080

C.M.A.No.3150 of 2005

BP(CO)
CS/22/10/2020



WEB COPY