

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.3207 of 2005
& CMP No.16504 of 2005

The Managing Director,
Tamil Nadu State Transport Corporation
12 Ramakrishna Road, Salem
(Formerly known as Anna
Transport Corporation) ... Appellant/2nd Respondent

...vs...

1. S.Duraisamy
2. R.Gnanasivam
3. R.Jaganathan
4. Mahalakshmi ..Respondents 1 to 4/Petitioner
5. Palaniappan ..Respondent 5/1st Respondent
(R5 Driver unnecessary party,
Hence given up)

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 21.03.2005 made in M.C.O.P.No.331 of 1999 on the file of the Motor Accident Claims Tribunal, I Additional District Court, Coimbatore.

For Appellant : Mr. P.Jegadeeswaran

For Respondent 1 : No Appearance.

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Transport Corporation challenging the quantum of compensation awarded by the Claims Tribunal in MCOP No.331 of 1999, dated 21.03.2005.

2. The brother-in-law, brothers and sister of one Kandasamy, who died on 07.05.1994 at 05.45 pm, due to the injuries sustained by him in an accident occurred at Palankarai Bus Stop in NH-47 Avinashi Main Road, are the claimants before the Tribunal. They claimed a compensation of Rs.3,00,000/-. As against the said claim, the Tribunal has awarded a sum of Rs.1,50,000/- as total compensation. Against which, the Transport Corporation has filed the Appeal.

3. Heard the learned counsel for the appellant / Transport Corporation.

4. The learned counsel for the appellant / Transport Corporation submitted that the Tribunal erred in holding the

driver of the appellant's bus as responsible for the accident; also the Tribunal erred in granting Rs.1,20,000/- towards loss of income by presuming the age and income of the deceased and by applying the multiplier of '5', which is very excessive.

5. This Court considered the said submissions and perused the materials available on record.

6. The vehicles involved in the accident are the ambassador tourist car bearing Registration No.TAB 2172 (in which the deceased, Kandasamy, and his sister, Annapoorani were travelling) and the Transport Corporation Bus. They died on account of the injuries sustained in the accident.

7. The Tribunal, based on the evidence and documents produced, has fixed the liability on the part of the driver of the appellant's bus and quantified the compensation amount.

8. This Court is of the opinion that the compensation awarded under all the heads by the Tribunal are reasonable, weight of evidence and based on settled principles. Further, the grounds taken by the Transport Corporation on the point of liability cannot be raised at this stage and therefore, it cannot be accepted at this distant point of time.

9. That apart the factum of accident was not disputed by the appellant. Also, earlier a petition in MCOP No.571/1998 which was filed by another claimant, in respect of the same accident, came to be disposed of by the Tribunal holding that the driver of the appellant's bus was responsible for the accident and the appellant has not only chosen to prefer any appeal against the same, but also complied with the award by depositing the compensation amount into the Court. As such, the appellant herein cannot be permitted to deny the manner of the accident in the subsequent claim petition arising out of the same accident. Further, the non-examination of the appellant's bus driver is also a fatal to the case. The Tribunal has considered all the above aspects and has rendered findings on negligence, which in the considered view of this Court, are perfectly justified.

10. Even assuming that the award towards loss of dependency is slightly excessive, it could have been successfully challenged if at all the appeal had been taken up for hearing during 2005 itself. The appeal was filed during 2005 and the same is being disposed of only today. In the meantime, there is an inevitable consequence of reflection on the value of money, i.e., the value of money has suffered reduction. Hence, on this score also, the quantum of compensation awarded by the Tribunal has to be confirmed as such.

11. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Transport Company shall deposit the entire compensation amount, along with interests and costs, as awarded by the Claims Tribunal, 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 is directed to transfer the respective shares to the Savings Bank Accounts of the claimants / respondents herein, through RTGS, within one week thereafter. Consequently, the connected CMP is closed.

Sd/-

Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

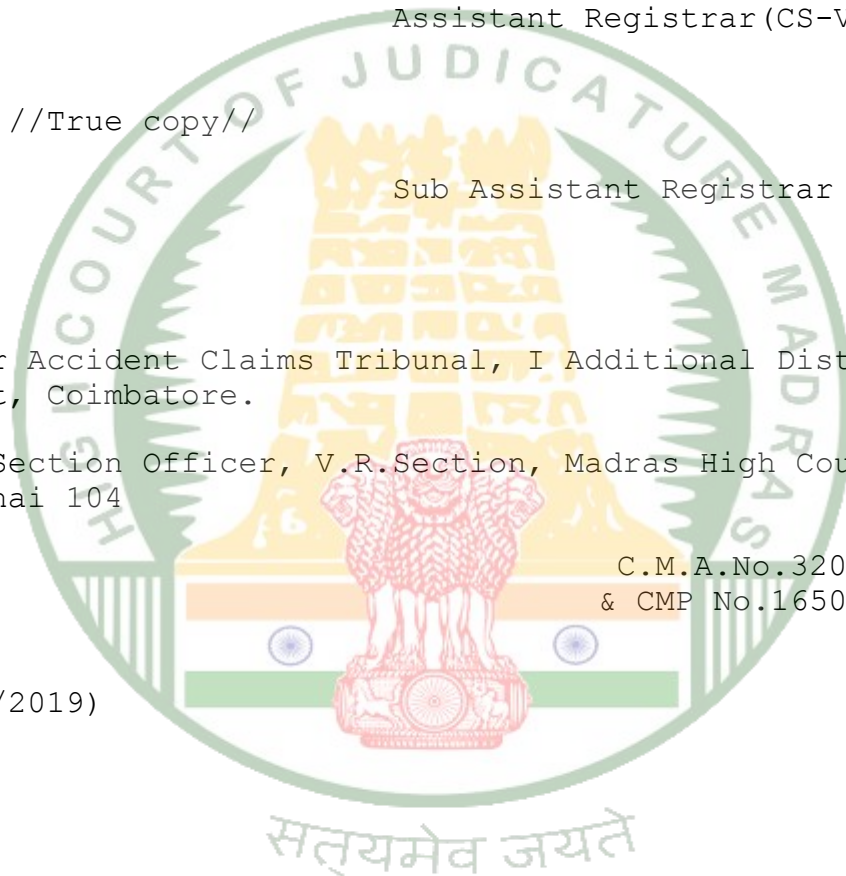
srk

To

1. Motor Accident Claims Tribunal, I Additional District Court, Coimbatore.
2. The Section Officer, V.R.Section, Madras High Court, Chennai 104

C.M.A.No.3207 of 2005
& CMP No.16504 of 2005

RSI (CO)
GMY (18/11/2019)



WEB COPY