

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2019

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.M.A. No.1606 of 2010
and M.P.No.1 of 2010

The Managing Director,
Tamilnadu State Transport Corporation Ltd,
Office, Ramakrishna Road,
Salem.

... Appellant/
2nd Respondent

Versus

1. Jeyanthi
2. Minor Keerthi
Represented by her mother
Jeyanthi
3. Minor Raja Vijayan
Represented by her mother
Jeyanthi
4. Sellammal
5. M.S.Kathiresan
6. Sathasivam
7. V.Sekar
8. The New India Assurance Company Ltd.,
Erode

... Respondents/Petitioners/
Respondents 1, 3, 4

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree made in M.C.O.P.No.126 of 2007 dated 15.09.2009, on the file of the Motor Accidents Claims Tribunal /I Additional Sub Judge, Erode.

For Appellant : Mr.V.Ramesh

For Respondents : Mr.S.Kaithamalai Kumaran
(for R1 to R5)
Mr.S.Manohar (for R8)
No appearance (for R6 and R7)

J U D G M E N T

Challenging the negligence as well as the quantum of compensation awarded by the Claims Tribunal in MCOP No.126 of 2007 dated 15.09.2009, the appellant / Tamilnadu Sate Transport Corporation Ltd., preferred this Civil Miscellaneous Appeal.

2. The facts of the case are that on 06.08.2006 at about 6.15 p.m, while the deceased Mohan was riding a kinetic zing motor vehicle bearing registration No.TN-33-AA-6196 on the Pallipalayam to Thiruchengode road from west to east on the extream left side of the road, the 6th respondent who is the driver of the Tamilnadu State Transport Corporation Bus bearing Registration No.TN-27-N-1622 drove the bus on the opposite direction in a rash and negligent manner and dashed against the deceased claimants vehicle. Out of the said accident, the husband of the first respondent viz. Mohan was died on 07.08.2006. Therefore, the legal heirs of the deceased filed a petition in M.C.O.P.No.126 of 2007 before the Motor Accidents Claims Tribunal /I Additional Sub Judge, Erode, claiming a sum of Rs.7,00,000/- towards compensation. The Claims Tribunal, on consideration of the oral and documentary evidence, awarded a sum of Rs.6,93,128/- payable with interest at the rate of 7.5% per annum from the date of petition to date of award.

3. Challenging the award of compensation as excessive and disproportionate, the appellant/ the Tamilnadu State Transport Corporation Ltd., is before this Court by way of filing this Civil Miscellaneous Appeal.

4. Heard Mr.V.Ramesh, learned counsel for the appellant, Mr.S.Kaithamalai Kumaran, learned counsel for R1 to R5 and Mr.S.Manohar, learned counsel for R8 and perused the materials available on record.

5. The appellant/Tamilnadu State Transport Corporation Ltd., challenging the award only on the ground of liability by stating

that at the time of accident, the deceased was traveled along with two other persons. Totally three persons were traveled in a motor cycle is not permissible under law. Therefore, the accident has not occurred due to rash and negligent driving manner of the driver of the Transport Corporation bus and hence the appellant is not liable to pay the compensation.

6. Admittedly in paragraph 11 of the order dated 15.09.2009 clearly shows that an FIR was registered based on the complaint given by the deceased who is the driver of the two wheeler wherein when the deceased along with other two persons were traveling near Thiruchengode to Pallipalayam, the rider of the motor cycle, stopped the two wheeler on the left side. At that time, the accident took place.

7. Upon perusing the entire award of the Tribunal, it is seen that the Claims Tribunal entered into its findings based on oral and documentary evidence before it and has awarded a just and fair compensation, which need not be interfered with by this Court in this appeal filed by the Tamilnadu State Transport Corporation Ltd., and hence the negligence on the part of the driver of the bus belonging to Tamilnadu State Transport Corporation and the quantum of compensation assessed by the Tribunal, cannot be said to be improper. Therefore, this Court finds that the Tribunal has awarded just and reasonable compensation amount of Rs.6,93,128/-. Hence, the appeal is liable to be dismissed.

8. In the result,

a) This Civil Miscellaneous Appeal is dismissed on merits by confirming the award passed by the Tribunal in M.C.O.P.No.126 of 2007 dated 15.09.2009, on the file of the Motor Accidents Claims Tribunal /I Additional Sub Judge, Erode.

b) The appellant is directed to deposit the amount as determined by the Tribunal together with interest at 7.5% per annum, after adjusting the amount, if any, already deposited, within a period of eight weeks from the date of copy of this Judgment.

c) On such deposit, the legal heirs of the deceased are permitted to withdraw the same with accrued interest, less the amount if any, already withdrawn, on filing appropriate application before the Tribunal. The share amount apportioned as compensation to the minor respondents (R2 and R3) is directed to be deposited in a Nationalised Bank till they attain majority. However, the mother/first claimant is permitted to withdraw accrued interest once in three months.

Consequently, connected Miscellaneous Petition is closed.
No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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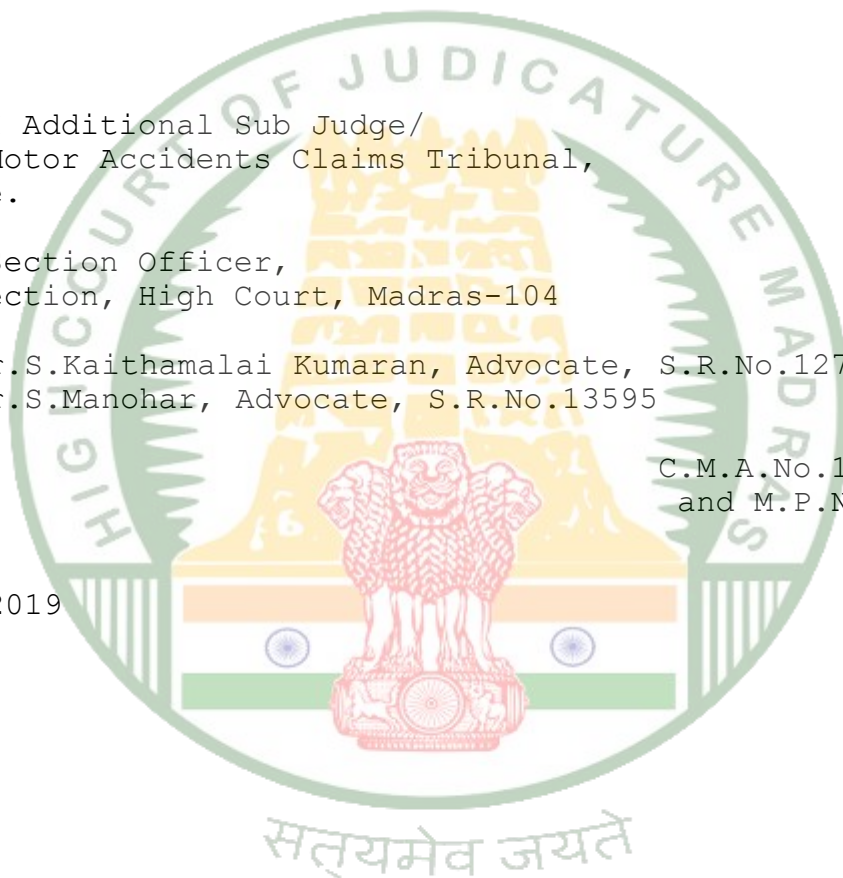
1. The I Additional Sub Judge/
The Motor Accidents Claims Tribunal,
Erode.
2. The Section Officer,
VR Section, High Court, Madras-104

+1cc to Mr.S.Kaithamalai Kumaran, Advocate, S.R.No.12775

+1cc to Mr.S.Manohar, Advocate, S.R.No.13595

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KK(CO)
CS/24/05/2019



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