

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.08.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2093 of 2010

The Managing Director,
Tamil Nadu State Transport Corporation Limited
(Salem Branch), Salem. ... Appellant /2nd Respondent

Vs

1.Poornam

2.Minor Saberinathan

3.Minor Kannan
(Minor respondents 2 and 3 rep.by
next friend and natural guardian,
mother Poornam, the first respondent
herein).

4.Avadaiammal

5.Azhagumalai ...1 to 5 respondents/Petitioners

6.Chinnasamy ... 6thRespondent/1st Respondent

Appeal under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 02.12.2009 made in MCOP No.645 of
2008 on the file of the Motor Accidents Claims Tribunal,
Principal District Judge, Erode District at Erode.

For Appellant : Mr.V.Ramesh

For Respondents : Mr.A.K.Kumarasamy for
R1 to R5

For Respondent-6 : Exparte

JUDGMENT

The case in brief, is as follows:

On 09.02.2008 at about 10.45 a.m., the deceased Ramar and
one Sabari were walking towards South direction on the Uttukuli
- Tiruppur Road. When they reached near Nallathupalam at
Velliyampalayam, the bus bearing Reg.No.TN-30-N-0425 belonging
to the appellant Transport Corporation, came in a rash and

negligent manner at high speed and dashed against the deceased Ramar and the said Sabari and as a result, the said Sabari died on the spot and the deceased Ramar died on the way to the hospital. This Civil Miscellaneous Appeal relates to the claim made in respect of the death of the deceased Ramar. The claimants are the wife, children and parents of the deceased. They filed a claim petition before the Tribunal claiming a sum of Rs.10,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.7,83,000/- with interest at the rate of 7.5% per annum from the date of petition.

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

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

4.The learned counsel for the respondents 1 to 5 / claimants has submitted that the Tribunal has considered the materials and evidence in proper perspective and has awarded the compensation, which is just, fair and reasonable and hence the compensation awarded by the Tribunal, does not require any interference in the hands of this Court.

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

6.It was deposed before the Tribunal by P.W.2-Karthik, eye witness to the accident, that when he came to the tea shop to have a tea, he saw the deceased Ramar and Sabari walking on the left side of the road and at that time, the bus belonging to the appellant Transport Corporation bearing Reg.No.TN-30-N-0425 came in a rash and negligent manner and dashed against them. R.W.1-Nallamuthu, conductor of the bus, deposed before the Tribunal that at the time of accident, a tipper lorry came in a very high speed from the opposite direction and in order to avoid dashing against the tipper lorry, the driver of the bus turned the bus to the left side and unfortunately the bus fell into a steep area. Considering the materials and evidence available on record, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation, which finding this Court is not inclined to interfere.

7. With regard to the quantum of compensation, even though P.W.2, who was working along with the deceased deposed before the Tribunal that the deceased was working with him as welder in M/s.K.G.Engineering Works, since there were no materials produced to that effect, the Tribunal disregarded the evidence of P.W.2 and fixed the daily income of the deceased at Rs.200/- on the ground that the deceased, being a male member would have earned such amount. Thereafter, the Tribunal came to the conclusion that the deceased would have spent Rs.50/- per day for his personal expenses and would have contributed Rs.150/- per day to his family for 25 working days and accordingly calculated the monthly income at Rs.3,750/- and the annual income at Rs.45,000/-, adopted the multiplier of 18 and arrived at the sum of Rs.7,20,000/- towards loss of income. The Tribunal has also awarded a sum of Rs.25,000/- towards loss of consortium, Rs.30,000/- towards loss of love and affection, Rs.3,000/- towards transport to hospital and Rs.5,000/- towards funeral expenses. The Tribunal has rightly considered the materials and evidence, correctly assessed the income of the deceased, adopted the correct multiplier and arrived at Rs.7,20,000/- towards loss of income. The amounts awarded by the Tribunal towards other heads are also very reasonable and hence the same are confirmed.

8. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. It is stated that the entire award amount has been deposited and the claimants have withdrawn 50% out of the deposited amount. Since the compensation awarded by the Tribunal is confirmed, the major claimants are permitted to withdraw their respective shares, on making proper application before the Tribunal. The share of the minors, the second and third respondents herein, shall continue to be in the bank deposit, as ordered by the Tribunal, till the minors attain majority. The first respondent / mother of the minors is permitted to withdraw interest directly from the bank once in three months, which shall be used for the benefit and welfare of the minors.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

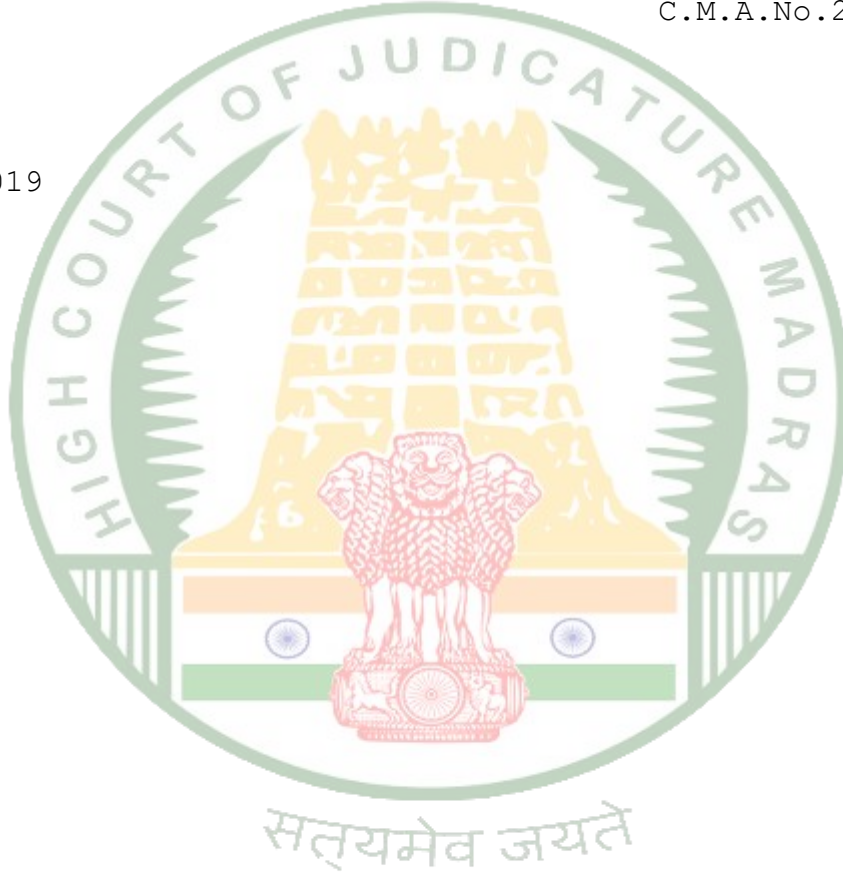
1.The Motor Accidents Claims Tribunal
Principal District Judge, Erode District at Erode.

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

+1 cc to M/s.S.Kaithamalai Kumaran Advocate sr67456

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