

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 21.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.2477 of 2010 and

M.P.No.1 of 2010

The Managing Director,
Tamil Nadu State Transport
Corporation, Kanchipuram.

... Appellant/2nd Respondent

Versus

1.Latha

2.Minor.Ajith Kumar

3.Minor.Vijay

4.Durai Raj

5.Devi

... Respondents/Petitioners

6.Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram.

... 6th Respondent/1st Respondent

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act, against the Judgment and Decree dated 12.2.2010 made in M.C.O.P.No.58 of 2007, on the file of Motor Accidents Claims Tribunal, Sub-Court, Cheyyar, Tiruvannamalai District.

For Appellant

:Mr.V.R. Ramesh

For Respondents 1 to 5

:Mr.K.J. Senthil Kumar

J U D G M E N T

This appeal has been filed against the Judgment and Decree dated 12.2.2010, made in M.C.O.P.No.58 of 2007, on the file of Motor Accidents Claims Tribunal, Sub-Court, Cheyyar, Tiruvannamalai District.

2. On 25.07.2006, the deceased Selvaraji was travelling in the Transport corporation bus bearing Registration No.21-N-0631, which was proceeding from Melmaliyunur to Chennai. When the bus was crossing the bye-pass road at Chengalpattu, the driver of the bus suddenly lost the control and dashed against the Cement woods in the side of the road. In the result the deceased sustained grievous injuries and died. The accident occurred only due to the rash and negligent act of the driver. Therefore, the legal heirs of the deceased who are the respondents herein filed M.C.O.P.No.58 of 2007 on the file of on the file of the Motor Accidents Claims Tribunal, Sub-Court, Cheyyar, Tiruvannamalai District, seeking compensation for a sum of Rs.12,00,000/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.9,83,000/- payable with interest at the rate of 7.5% per annum.

3. Challenging the same as excessive and disproportionate, the appellant has filed this appeal.

4. The learned counsel for the appellant contends that the deceased was travelling in the foot board of the bus, hence he sustained injuries and died. Therefore, the liability fixed against the deceased is not a reasonable one.

4. Heard the learned counsel for the respondents and perused the materials available on record.

5. Upon perusing the entire award of the Tribunal, it is seen that the Tribunal entered into its findings based on oral and documentary evidence before it and has not awarded a just and fair compensation, which need interference by this Court in this appeal and the quantum of compensation assessed by the Tribunal, needs to be modified.

6. Though the appellant has raised several grounds, but this Court is not inclined to entertain any of the grounds. But, one ground raised by the appellant is acceptable one. Since, as per the heads awarded by the Tribunal the total comes to Rs.9,53,000/- which is correctly mentioned in the Judgment, whereas in the Decree it is wrongly mentioned as Rs.9,83,000/- Therefore, this Court is inclined to modify the said amount only in respect of total calculation to Rs.9,53,000/- instead of Rs.9,83,000/-. The Tribunal awarded the amount under the following heads:

S.No	Particulars	Amount granted by the Tribunal
1	Loss of Income	Rs.9,18,000/-

S.No	Particulars	Amount granted by the Tribunal
2	Loss of Consortium	Rs.15,000/-
3	Loss of Love and Affection	Rs.15,000/-
4	Funeral Expenses	Rs.5,000/-
	Total	Rs.9,53,000/-

7.In the result,

(a) this appeal is partly allowed and the Judgment dated 12.2.2010, made in M.C.O.P.No.58 of 2007, on the file of Motor Accidents Claims Tribunal, Sub-Court, Cheyyar, Tiruvannamalai District is set aside.

(b) the appellant/Transport Corporation is directed to deposit the enhanced amount, less the amount, if any, already deposited, with interest at the rate of 7.5% within a period of 8 weeks from the date of receipt of copy of this Judgment.

(c) On such deposit, the first, fourth and fifth claimants are directed to file proper application before the Tribunal and withdraw their respective share amount.

(d) The amount apportioned as compensation to the second and third fourth claimants/minors are 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.

(e) There will be no order as to costs.

(f) Consequently, connected miscellaneous petition is closed.

Sd/--

Assistant Registrar (CS IV)

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Sub Assistant Registrar

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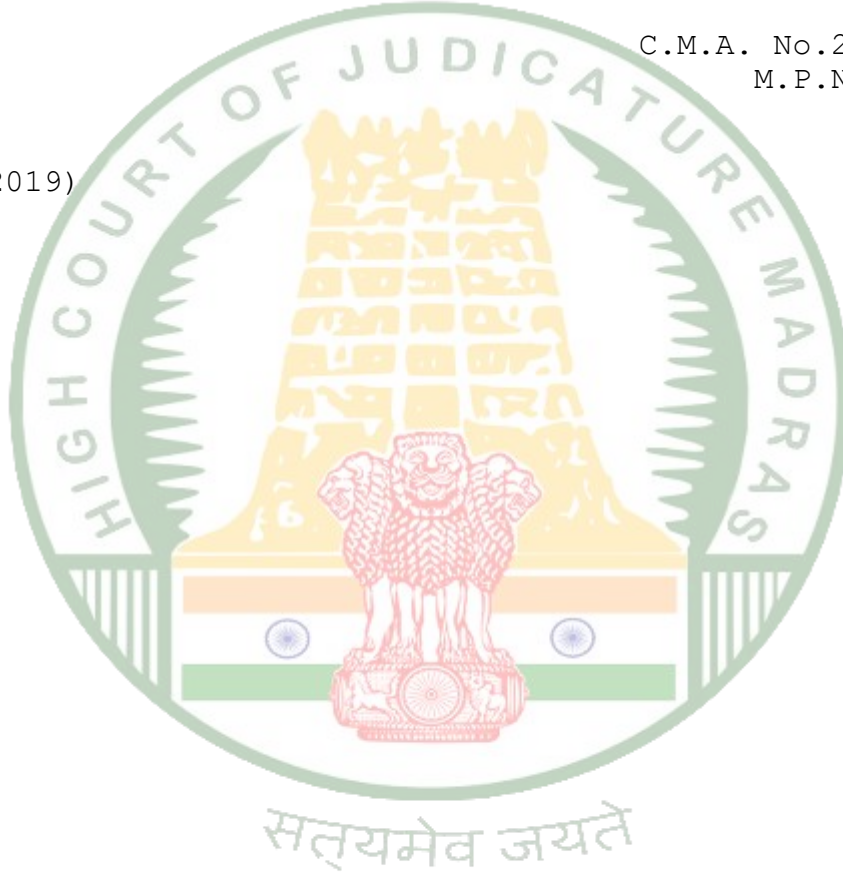
1.The Motor Accident Claims Tribunal,
Sub-Court, Cheyyar,
Tiruvannamalai District.

2.The Section officer,
VR Section, High Court,
Madras.(2 Copies)

+1cc to Mr.K.G.Senthil Kumar, Advocate SR.No. 15820

C.M.A. No.2477 of 2010
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CNR(CO)
GN(28/05/2019)



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