

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2626 of 2015
and M.P.No.1 of 2015

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Villupuram.

.. Appellant

Vs.

1.Amsavalli
2.Minor Suriya Kumar
3.Minor Devika
4.Minor Saraswathi
5.Poongavanam

.. Respondents

(2, 3, 4 are minors and are represented
by their mother and natural guardian, Amsavalli)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 17.06.2013 made in M.C.O.P.No.520 of 2012 on the file of Motor Accidents Claims Tribunal, III Additional District & Sessions Court, Kallakurichi, Villupuram.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 17.06.2013 made in M.C.O.P.No.520 of 2012 on the file of Motor Accidents Claims Tribunal, III Additional District & Sessions Court, Kallakurichi, Villupuram.

2.The appellant is the respondent in M.C.O.P.No.520 of 2012 on the file of Motor Accidents Claims Tribunal, III Additional District & Sessions Court, Kallakurichi, Villupuram. The respondents 1 to 5 filed the above said claim petition claiming a sum of Rs.25,00,000/- as compensation for the death of one viz., M.Murugan, who died in the accident that took place on 30.07.2010.

3.The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to

the appellant-Transport Corporation and directed the appellant-Transport Corporation to pay a sum of Rs.7,65,000/- as compensation to the respondents 1 to 5/claimants.

4.The appellant has come out with the present appeal challenging the liability fixed on the appellant and quantum of compensation awarded by the Tribunal to the respondents 1 to 5.

5.The contention of the learned counsel for the appellant is that the accident did not occur due to the rash and negligent driving by the driver of the bus, but only occurred when the deceased in a drunken mood, suddenly crossed the road. The Tribunal considering the above contention and evidence let in by the appellant as well as the respondents and in the absence of any independent evidence let in by the appellant to substantiate their case, while the respondents 1 to 5 examined P.W.2/eye witness, held that accident occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant-Transport Corporation and prayed for setting aside the award passed by the Tribunal.

6.I have heard the learned counsel appearing for the appellant and perused the materials available on record.

7.From the materials on record, it is seen that the Tribunal considered the evidence of P.W.2/independent eye-witness and held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant-Transport Corporation. The Tribunal considering the age and avocation of the deceased awarded a sum of Rs.7,65,000/- as compensation to the respondents 1 to 5/claimants, which is not excessive. I do not find any error in the award passed by the Tribunal warranting interference by this Court.

8.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.7,65,000/- awarded by the Tribunal as compensation to the respondents 1 to 5/claimants, along with interest and costs is confirmed. The appellant-Transport Corporation is directed to deposit the award amount with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents 1 and 5 are permitted to withdraw their respective share of the award amount, on the basis of apportionment fixed by the Tribunal, along with interest and costs, less the amount if any, already withdrawn. The share of the minor respondents 2 to 4 is directed to be deposited in any one of the Nationalized Bank till they attain majority. On such deposit, the first respondent being the mother of the minor respondents 2 to 4 is permitted to withdraw the accrued interest once in three months

for the welfare of the minor respondents 2 to 4. No costs.
Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

pds/krk

To

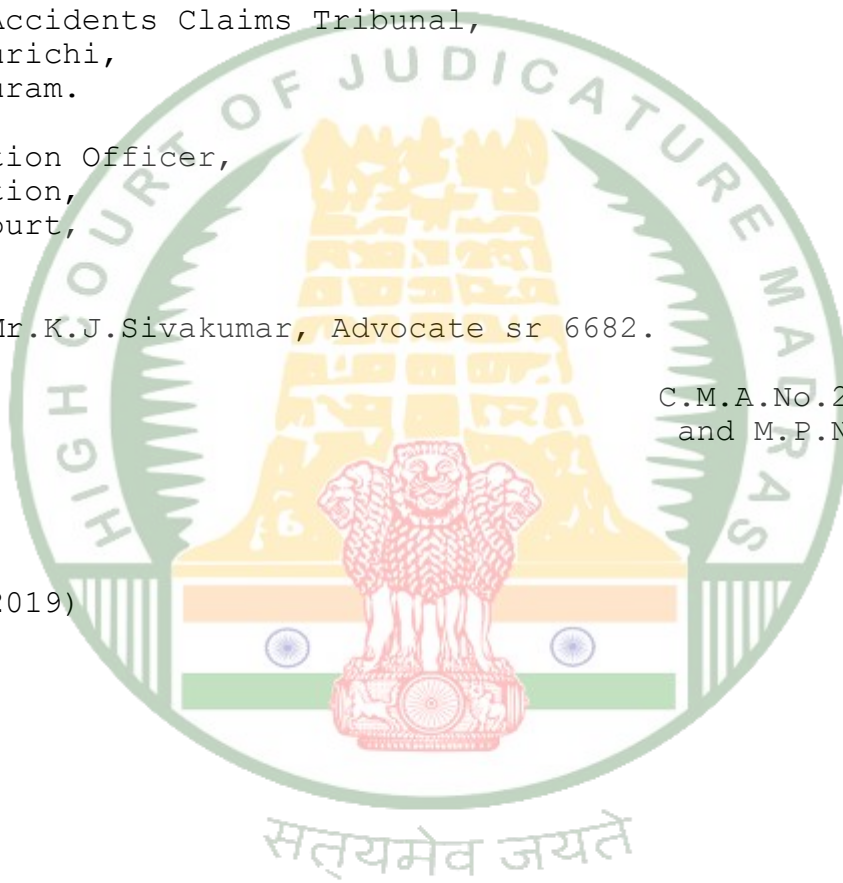
1.The III Additional District & Sessions Judge,
Motor Accidents Claims Tribunal,
Kallakurichi,
Villupuram.

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

+1 CC to Mr.K.J.Sivakumar, Advocate sr 6682.

C.M.A.No.2626 of 2015
and M.P.No.1 of 2015

KJ (CO)
SP (13/06/2019)



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