

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.2922 of 2013

Metropolitan Transport Corporation Ltd.,
Represented by its Managing Director,
No.2, Pallavan Salai,
Chennai - 600 002. ...Appellant/Respondent

vs.

1.R.Usharani
2.R.Sunitha
3.Minor R.Anitha ...Respondents/Petitioners
(Minor rep by R.Usharani)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 28.02.2008 passed in MCOP.No.2566 of 2003 on the file of the Motor Accident Claims Tribunal / Additional District and Sessions Judge, Fast Track Court IV, Chennai.

Appellant : Mr.S.S.Swaminathan

Respondents : Mr.S.Gangaram Prasad

JUDGMENT

The appellant, Metropolitan Transport Corporation Limited is the respondent in MCOP.No.2566 of 2003 on the file of the Motor Accident Claims Tribunal / Additional District and Sessions Judge, Fast Track Court IV, Chennai. The claimants filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.20,00,000/- for the death of one Ramasamy, husband of the first claimant, father of the claimants 2 & 3 in a road accident on 10.01.2003.

2. The case of the claimants in nutshell is as follows:

On 10.01.2003, the deceased Ramasamy was travelling as a passenger in a Metropolitan Transport Corporation Limited bus bearing Registration No. TN 01 N 2149 along Kodambakkam High Road, Chennai and at about 17.40 hours, when he attempted to alight the bus, driver of the bus applied sudden brakes, as a result whereof, the deceased Ramasamy fell down and sustained fatal injuries and died on the spot.

3. According to the claimants, the rash and negligent driving of the driver of the bus belonging to the Metropolitan Transport Corporation Limited was the cause of the accident and therefore, they are liable to pay compensation.

4. The present appellant / Metropolitan Transport Corporation Limited contested the claim petition. The learned Additional District and Sessions Judge / Motor Accidents Claims Tribunal, Fast Track Court IV, Chennai after analysing the evidence on record, awarded a compensation of Rs.10,60,000/- together with interest at the rate of 7.5% per annum to the claimants. Aggrieved over the orders passed by the Tribunal, the Metropolitan Transport Corporation Limited has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Heard Mr.S.S.Swaminathan, learned counsel appearing for the appellant and Mr.S.Gangaram Prasad, learned counsel appearing for the respondents.

6. In the instant case, the deceased was aged 52 years on the date of the accident and he was permanently employed in Brakes India Limited, Padi, Chennai as Senior Assistant, earning a sum of Rs.15,500/- per month. The Tribunal took the average income of the deceased as Rs.16,000/- per month and adopted multiplier '6', since the claimants contended that he had only six years of service. As per the decision rendered in Sarla Verma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121, the proper multiplier to be adopted in the instant case is '11'. The learned counsel appearing for the appellant contended that the claimants have already withdrawn the entire Award amount. It is pertinent to point out that the claimants have not filed any appeal or cross objection. The accident took place in the year 2003 and the Award passed by the Tribunal is based on the well laid principles of law which were in vogue at the time of passing of the orders and the same cannot be said to be on the higher side. Therefore, the present appeal is liable to be dismissed.

7. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs.

(ii) The orders passed by the Tribunal is upheld.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
The Additional District and Sessions Judge,
Fast Track Court IV, Chennai.

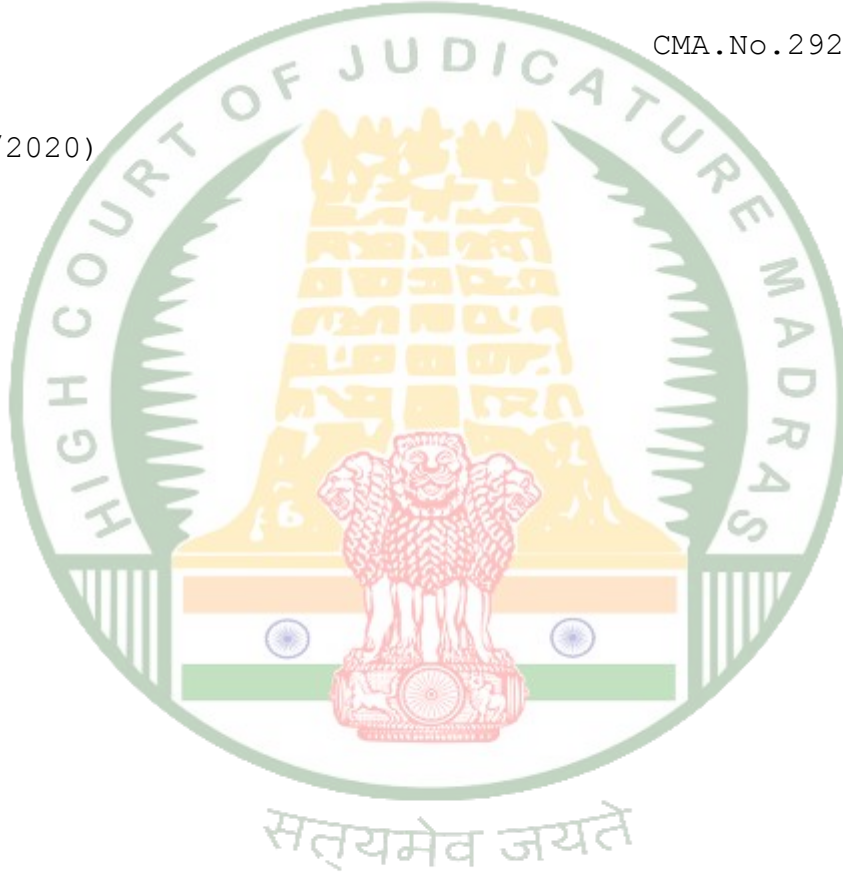
2. The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.S.S.Swaminathan, Advocate SR.No.97309

+1cc to Mr.G.Balaji Prasad, Advocate SR.No.97820

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PVS (CO)
GMY (22/07/2020)



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