

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.951 of 2012

and

M.P.No.1 of 2012

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division II, Chennimalai Road, Erode ... Appellant

Vs.

1.S.Sumathi
2.Minor S.Karthickkumar
3.Minor S.Indira
(Minors 2&3 rep.by N.F.Mother
S.Sumathi, the 1st respondent)
4.Parvathi (died)
(amended as per order in I.A.No.
1049/10 dated 27.09.10)
5.R.Chandrasekaran
(Given up) ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 12.04.2011 made in M.C.O.P.No.493 of 2009 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Erode.

For Appellant	: Mr.K.Sivakumar
For R1 to R3	:Mr.K.Govi Ganesan
For R4	: Died
For R5	: Given up

JUDGMENT

The 2nd respondent before the Tribunal, is the appellant herein. This Civil Miscellaneous Appeal has been filed against the order and Decree dated 12.04.2011 made in M.C.O.P.No.493 of 2009 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Erode.

2. The averments made in the claim petition are as follows:-

On 03.05.2009 at 7.35 p.m., the deceased Subramaniam was standing in East-West road near TASMAL at Soorampatti Valasu. At that time, the 1st respondent drove the bus bearing No.TN 33 N 1673 in rash and negligent manner and hit against the deceased who died on the spot. He was 38 years on the date of accident. He was earning Rs.6,000/- per month as mason. The claimants who are the wife, children and mother are defendants. But, subsequently, the 4th claimant who is the mother of the deceased died on 06.02.2010.

3. Before the Tribunal, the first respondent-widow has examined herself as P.W.1 and also examined P.W.2/the occurrence witness and driver of the Transport Corporation was examined as R.W.1 and on behalf of the respondents/petitioners Exhibits P1 to P9 were marked and no documents was marked by the appellant/Transport Corporation.

4. Taking into consideration the evidence of P.W.2, coupled with Exhibit P1-F.I.R which is registered against the offending bus and also taking note of Exhibit P2-rough sketch and Exhibit P4-Motor Vehicle Inspection Report, the Tribunal has come to the conclusion that the accident has taken place due to the rash and negligent driving of the driver of the bus belonging to the Government Transport Corporation and on re-appreciation of evidence and in the absence of any acceptable evidence on behalf of the Transport Corporation, the finding rendered by the Tribunal is hereby confirmed.

5. On the point of quantum, both the parties are heard.

6. As per Exhibit P5-Post mortem Certificate, the deceased was aged about 40 years and working as a Mason and earned Rs.200/- per day and deducting a sum of Rs.50/- for his personal expenses, the contribution to the family comes to Rs.150/- per day and also taking note of holidays and counted as 23 days per month, the Tribunal arrived at contributory income of Rs.3,450/-per month which works out Rs.41,400/- per annum and the same does not warrant any interference and the multiplier method adopted by the Tribunal and the amount awarded under conventional heads by the Tribunal is found to be reasonable and just compensation was arrived at and hence, I do not find any ground to interfere with the same.

7. In such view of this matter, this Civil Miscellaneous Appeal is dismissed. The amount awarded by the Tribunal is hereby confirmed. The Transport Corporation has

submitted that the entire amount has already been deposited.
It is open to the claimant to file petition before the
Tribunal for withdrawal of the compensation amount. No costs.
Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

nvi

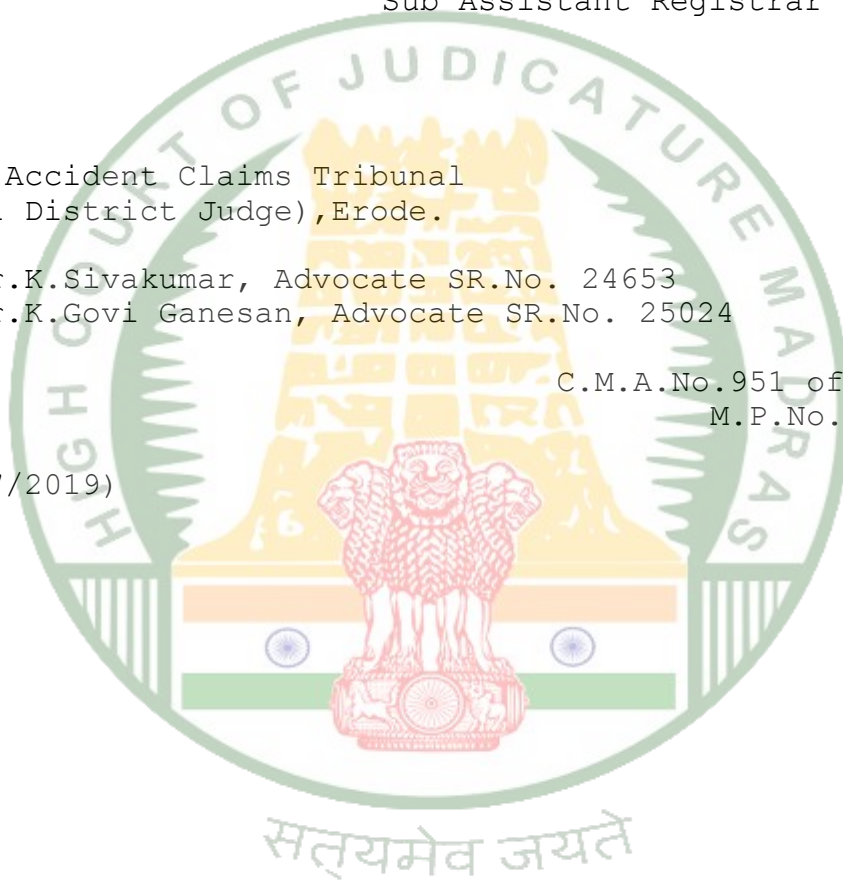
To
The Motor Accident Claims Tribunal
(Principal District Judge), Erode.

+1cc to Mr.K.Sivakumar, Advocate SR.No. 24653

+1cc to Mr.K.Govi Ganesan, Advocate SR.No. 25024

C.M.A.No.951 of 2012 and
M.P.No.1 of 2012

A.SK(17/07/2019)



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