

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.209 of 2014

1.Smt.V.Vijaya  
2.V.Vazhmuniyan

...Appellants/Petitioners

vs.

The Managing Director  
Tamilnadu State Transport Corporation  
Limited, Division - III,  
No.1,2, Sheikpet Nadu Street,  
Kanchipuram District.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 28.01.2013 in M.C.O.P.No.58 of 2009 on the file of the Motor Accident Claims Tribunal / Sub Court, Kanchipuram.

Appellants : Mr.C.Prabakaran  
Respondent : Mr.K.J.Sivakumar

J U D G M E N T

The appellants are the claimants in M.C.O.P.No.58 of 2009 on the file of the Motor Accident Claims Tribunal / Sub Court, Kanchipuram. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.8,00,000/- for the death of their son Ramakrishnan in a road accident on 12.09.2008.

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

On 12.09.2008, the deceased Ramakrishnan was travelling as a passenger in a Government bus, Route No. T 34 and was proceeding towards Kanchipuram from Uthiramerur and at about 08.45 p.m, the driver of the bus drove the bus rashly and negligently, as a result whereof, the deceased Ramakrishnan fell down and sustained injuries. He was immediately rushed to the Government Hospital at Kanchipuram. However, he died in the hospital on 13.09.2008.

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

4. The learned Subordinate Judge / Motor Accident Claims Tribunal, Kanchipuram after analysing the evidence on record, dismissed the claim petition, on the following grounds:

- I. Postmortem certificate was not filed by the claimants even though the deceased died on 13.09.2008 i.e. a day after the accident.
- II. One Mr. M. Mahavizhnu, who lodged the complaint with the Sub Inspector of Police, Kanchipuram Taluk Police Station was not examined as a witness.
- III. The bus ticket was not produced by the claimants to show that the deceased was actually travelling in the respondent bus.
- IV. Though the respondent corporation had specifically contended that no bus was operated between Uthiramerur and Kanchipuram on 12.09.2008, the Inspector of Police did not get the trip sheet from the respondent to prove the same.

Aggrieved over the orders passed by the Tribunal, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Mr. C. Prabakaran, learned counsel appearing for the appellants contended that the Tribunal was wrong in dismissing the entire claim petition. He also produced a copy of postmortem certificate and contended that the deceased Ramakrishnan died "due to the effects of multiple injuries sustained by him".

6. Per contra, Mr. K. J. Sivakumar, learned counsel appearing for the respondent contended that in the claim petition it is stated that the deceased Ramakrishnan fell down from the bus at 08.45 p.m and a copy of the trip sheet (produced before this Court today) would reveal that the bus departed from Uthiramerur bus stand only at 9 '0 clock and that the accident spot is more than 15 kilometers from the bus stand. His specific contention is that the deceased did not travel in the bus as alleged by the claimants.

7. It is pertinent to point out that the postmortem certificate and the trip sheet were not filed before the Tribunal and the contention of the respondent is that the accident spot is more than 15 kilometers away from Uthiramerur bus stand. In the facts and circumstances, the parties are

directed to file post mortem certificate and the trip sheet of the bus before the Sub Court, Kanchipuram and the Tribunal after affording opportunity to both the parties to adduce the oral and documentary evidence shall pass further orders on merits, in accordance with law within a period of three months from the date of receipt of a copy of this order.

8. In the result, the Civil Miscellaneous Appeal is disposed of. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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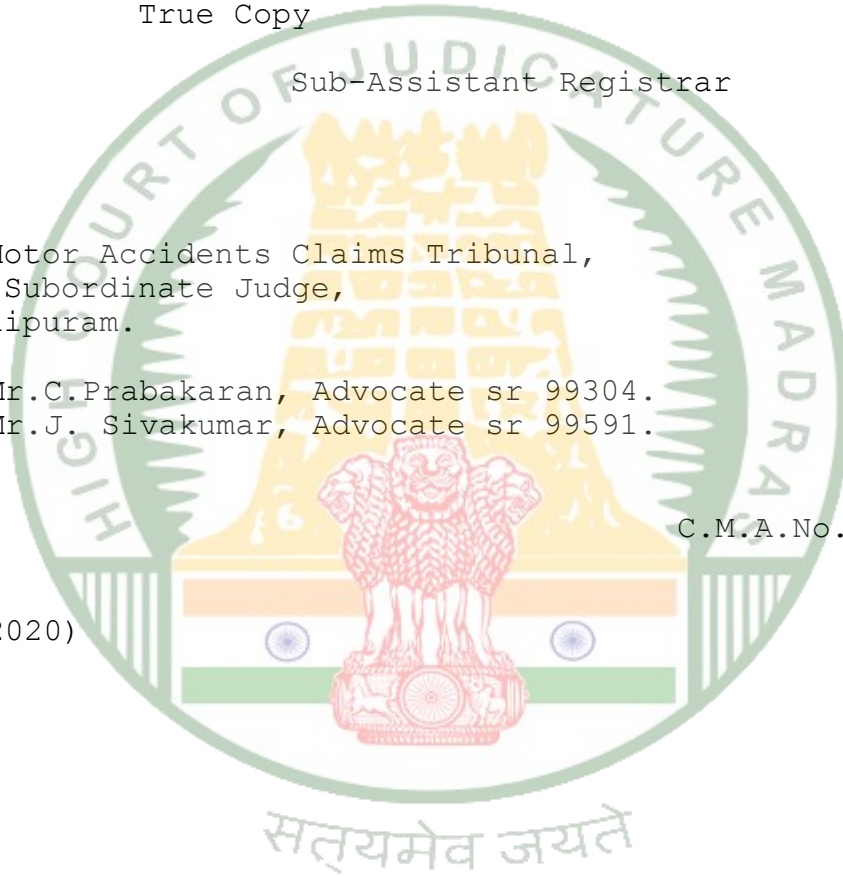
The Motor Accidents Claims Tribunal,  
The Subordinate Judge,  
Kanchipuram.

+1 CC to Mr.C.Prabakaran, Advocate sr 99304.

+1 CC to Mr.J. Sivakumar, Advocate sr 99591.

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KJ(CO)  
SP(12/08/2020)



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