

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.P.No.16107 of 2019
and
C.M.A.SR.No.33271 of 2018

The Managing Director,
Tamil Nadu State Transport
Corporation (Salem) Limited,
No.12, Ramakrishna Road,
Salem - 636 007.

..Petitioner/ Appellant

Vs.

1.Shanthi

2.Govindasamy

3.Minor Sathish Kumar
(Represented by next friend, mother
1st petitioner Shanthi)

.. Respondents/Respondents

PRAYER: C.M.P.No.16107 of 2019 is filed to condone the delay of 70 days in filing the above C.M.A.SR.No.33271 of 2018.

C.M.A.SR.No.33271 of 2018 is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 25.09.2014, made in M.C.O.P.No.171 of 2013 on the file of the Motor Accidents Claims Tribunal, Special District Court, Krishnagiri.

For Appellant : Mr.D.Venkatachalam

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J U D G M E N T

This Civil Miscellaneous Petition has been filed by the petitioner/Transport Corporation, challenging the award dated 25.09.2014, made in M.C.O.P.No.171 of 2013, on the file of the

Motor Accident Claims Tribunal, Special District Court, Krishnagiri.

2.The petitioner/Transport Corporation is respondent in M.C.O.P.No.171 of 2013, on the file of the Motor Accident Claims Tribunal, Special District Court, Krishnagiri. The respondents filed the said claim petition, claiming a sum of Rs.25,00,000/- as compensation for the death of one G.Prasanth, who died in the accident that took place on 13.01.2012. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation and directed the petitioner/Transport Corporation to pay a sum of Rs.11,95,800/- as compensation to the respondents. Challenging the said award dated 25.09.2014, made in M.C.O.P.No.171 of 2013, granting compensation to the respondents, the appellant/Transport Corporation has come out with the present petition.

3.The learned counsel appearing for the petitioner/Transport Corporation contended that mere registering FIR against the driver of the appellant more enough for holding negligence on him. There is no oral and documentary evidence adduced by the claimants to prove the age, income and occupation of the deceased. The monthly income of the deceased taken by the Tribunal at Rs.9,000/- in the absence of proof. It is on higher side. The sum awarded by the Tribunal towards loss of love & affection Rs.45,000/- is excessive and prayed for setting aside the award of the Tribunal.

4.Heard Mr.D.Venkatachalam, learned counsel appearing for the Petitioner and perused the materials available on record.

5.On perusal of records, it is observed that the accident occurred on 13.01.2012, a town bus bearing Reg.No.TN-29-N-1413 belongs to the respondent plying between K.Kolathur and Krishnagiri has taken its trip at K.Kolathur by 15.05 hours proceeded towards Krishnagiri which was driven by its in cautiously, on the left side of the road after following all traffic rules. When the bus was further proceeded after off load the passengers at Ramapuram bus stop at about 15.40 hours, the bus just move some fifty meters after ran over a speed breaker, the driver of the respondent bus saw another town bus bearing Reg.No.TN-29-N-1507 was also belongs to the same respondent was coming in opposite direction and at the same time one TVS XL super moped bearing Reg.No.TN24-C-3364 which was driven by its rider along with one pillion rider came from the back side of the opposite bus and tried to over took in a rash and negligent

manner without minding the traffic rules inter went between the two buses, due to uncontrollable speed the TVS XL super rider hit from right corner of the respondent bus bearing Reg.No.TN29-N-1413 and occurred accident. FIR was also registered against the rider of the two wheeler. The deceased was aged only 29 years at the time of accident. The deceased is the only breadwinner of the family. Hence the petitioners are depending only on the income of the deceased. The respondent/Transport Corporation denied the mode of accident as well as the claim made by the claimants.

6.The Tribunal observed all these facts and has given a finding that the negligent aspect especially evidence of RW1 who is the driver of the respondent bus. The accident occurred only due to rash and negligent driving on the part of the driver of the TNSTC bus bearing Reg.No.TN-29-N-1413. The Tribunal also assessed the age of the deceased who was working as a seasonal, sub contract, real estate business and doing flower business. The deceased was earning a sum of Rs.25,000/- per month. In the absence of any materials, the Tribunal considering that the accident is of the year 2012, age and avocation of the deceased is fixed, the Tribunal has taken income of the deceased at Rs.300/- per day and the monthly income of the deceased at Rs.9,000/-, applied multiplier '18' deducted 50% towards personal expenses as the deceased was a bachelor and awarded a sum of Rs.9,72,000/- towards loss of income which is in order. The amounts awarded by the Tribunal under all other heads are not excessive warranting interference by this Court.

7.Recording the submission made by the learned counsel for the petitioner, this Miscellaneous Petition is dismissed and the Civil Miscellaneous Appeal is rejected at the SR stage itself.

Sd/-

Assistant Registrar(Insp.Cell)

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Sub Assistant Registrar

mtl

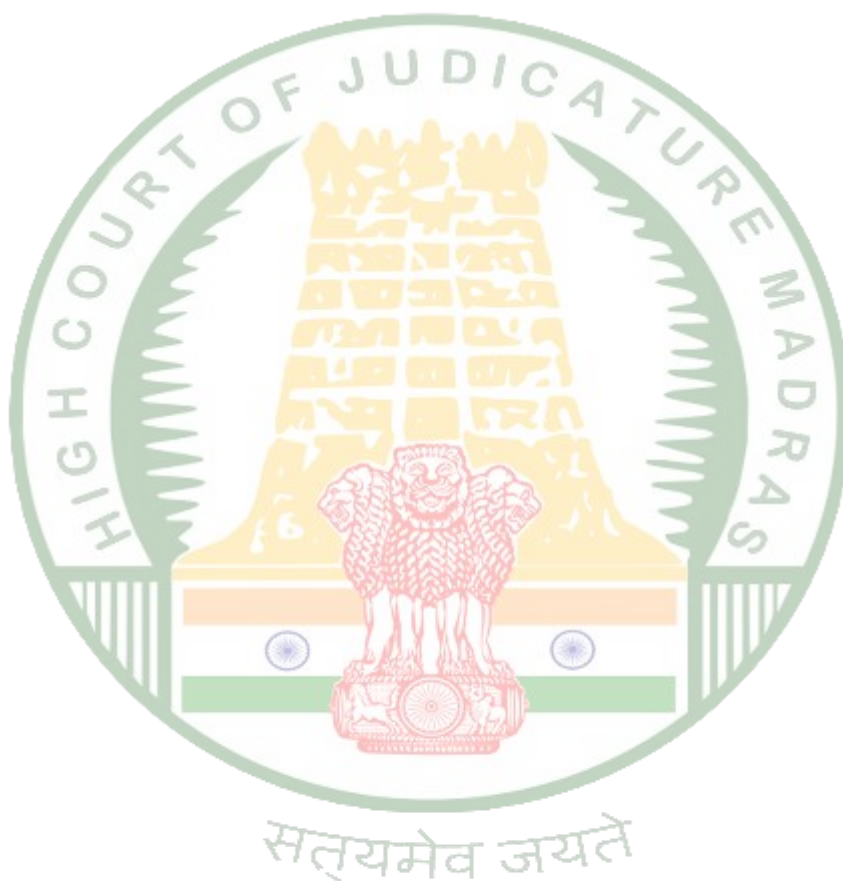
To

1.The Special District Judge,
Motor Accident Claims Tribunal,
Krishnagiri.

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

C.M.P.No.16107 of 2019
in
C.M.A.SR.No.33271 of 2018

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nr 31/10/2019



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