

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.09.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.185 and 186 of 2017
and C.M.P.Nos.1246 and 1247 of 2017

The Managing Director
Tamil Nadu Transport Corporation
(Coimbatore Division-I) Limited,
Coimbatore-43.

..Appellant in both appeals/
Respondent

Vs

1.Lakshmi @ Venda
2.Chinnathai

... Respondents in CMA No.
185 of 2017/Claimants

Saravanan

... Respondent in CMA No.
186 of 2017/Claimant

Appeals under Section 173 of the Motor Vehicles Act against the judgment and decree dated 31.07.2013 made in MCOP Nos.481 of 2012 and 554 of 2012 respectively, on the file of the Motor Accidents Claims Tribunal (I Additional District Judge, Tiruppur).

For Appellant : Ms.R.T.Sundari
in both appeals

For Respondents : Mr.Ma.P.Thangavel
in both appeals

COMMON JUDGMENT

The facts of the case, in brief, are as follows:

On 20.10.2012 at about 05.30 hours, the deceased Sridhar and the injured Saravanan were standing in the Tiruppur to Ottanchathiram Main Road, near Amman Koil Bend. At that time, the bus bearing Reg. No.TN-33-N-2545 belonging to the appellant Transport Corporation, driven by its driver in a rash and negligent manner, came from the Tiruppur - Theni Road and dashed against the deceased and the injured. Due to the said impact, both of them sustained grievous injuries and subsequently the deceased died. The legal heirs of the deceased filed MCOP No.481

of 2012 before the Tribunal, claiming a sum of Rs.15,00,000/- as compensation. The injured filed MCOP No.554 of 2012 before the Tribunal, claiming a sum of Rs.15,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.8,96,000/- with interest at the rate of 7.5% per annum from the date of petition in respect of the deceased (MCOP No.481 of 2012 relating to CMA No.185 of 2017) and a total compensation of Rs.3,94,600/- with interest at the rate of 7.5% per annum from the date of petition in respect of the injured (MCOP No.554 of 2012 relating to CMA No.186 of 2017).

2.Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeals.

3.The learned counsel for the appellant Transport Corporation has submitted that the Tribunal has erred in giving a finding that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation. She also submitted that the Tribunal has erred in fixing a sum of Rs.72,000/- as annual income and also adopting the multiplier method in arriving at the loss of income in respect of the deceased as well as the injured. It is also her submission that the compensation amounts awarded by the Tribunal in both the cases, are excessive and exorbitant.

4.The learned counsel for the respondents / claimants has submitted that the Tribunal has rightly considered the materials and evidence available on record and had rendered a finding that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation. It is also his submission that the compensation amounts awarded by the Tribunal are just, fair and reasonable and hence the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

6.The Tribunal, taking into consideration Ex.P1-First Information Report, Ex.P5-Post Mortem Certificate of the deceased, Ex.P6-Death Certificate of the deceased, Ex.P7-Legal Heirship Certificate of the deceased, Ex.P8-Discharge summary in respect of the injured Saravanan, Ex.P11-Disability Certificate of the injured Saravanan and Ex.P12-X-ray of the injured Saravanan and also taking note of the fact that no oral or documentary evidence adduced on the side of the appellant Transport Corporation against the materials and evidence adduced on the side of the deceased and injured, came to the conclusion

that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation. This Court is not inclined to interfere with the said finding rendered by the Tribunal.

7. In respect of the quantum of compensation relating to MCOP No.481 of 2012 (CMA No.185 of 2017), the Tribunal came to the conclusion that the deceased Sridhar would have earned a sum of Rs.6,000/- per month as mason, deducted $\frac{1}{3}$ rd of the amount towards personal expenses of the deceased and arrived at the monthly income at Rs.4,000/-, annual income at Rs.48,000/-, adopted the multiplier of 18 and awarded a sum of Rs.8,64,000/- towards loss of income. The Tribunal has also awarded a sum of Rs.15,000/- towards loss of consortium to the wife of the deceased, Rs.10,000/- towards loss of love and affection to the second respondent, Rs.2,000/- towards transportation of the dead body to the hospital and Rs.5,000/- towards funeral expenses. The Tribunal has rightly fixed the monthly income of the deceased by considering the materials and evidence adduced on record, adopted the correct multiplier and awarded Rs.8,64,000/- towards loss of income. The amounts awarded by the Tribunal towards other heads are also very reasonable. In view of the same, the compensation awarded by the Tribunal at Rs.8,96,000/- with interest at the rate of 7.5% per annum from the date of petition, is confirmed.

8. In respect of the quantum of compensation relating to MCOP No.554 of 2012 (CMA No.186 of 2017), the Tribunal came to the conclusion that the injured Saravanan would have earned a sum of Rs.6,000/- per month as mason, arrived at the annual income at Rs.72,000/-, adopted the multiplier of 16 and awarded a sum of Rs.3,45,600/- in respect of 30% disability, even though P.W.6-Doctor fixed the disability at 35.5%. The Tribunal has also awarded a sum of Rs.25,000/- towards pain and suffering, Rs.20,000/- towards loss of amenities, Rs.2,000/- towards extra nourishment and Rs.2,000/- towards transportation expenses. The Tribunal has rightly fixed the monthly income of the injured by considering the materials and evidence adduced on record, adopted the correct multiplier and awarded Rs.3,45,600/- towards 30% disability. The amounts awarded by the Tribunal towards other heads are also very reasonable. In view of the same, the compensation awarded by the Tribunal at Rs.3,94,600/- with interest at the rate of 7.5% per annum from the date of petition, is confirmed.

9. In the result, the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed. The appellant Transport Corporation is directed to deposit the award amounts as ordered by the Tribunal with interest, after deducting the amounts if any already

deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents / claimants in these appeals are permitted to withdraw their respective shares, on making proper application before the Tribunal.

Sd/-
Asst.Registrar (CS VII)

/true copy/
Sub Asst. Registrar

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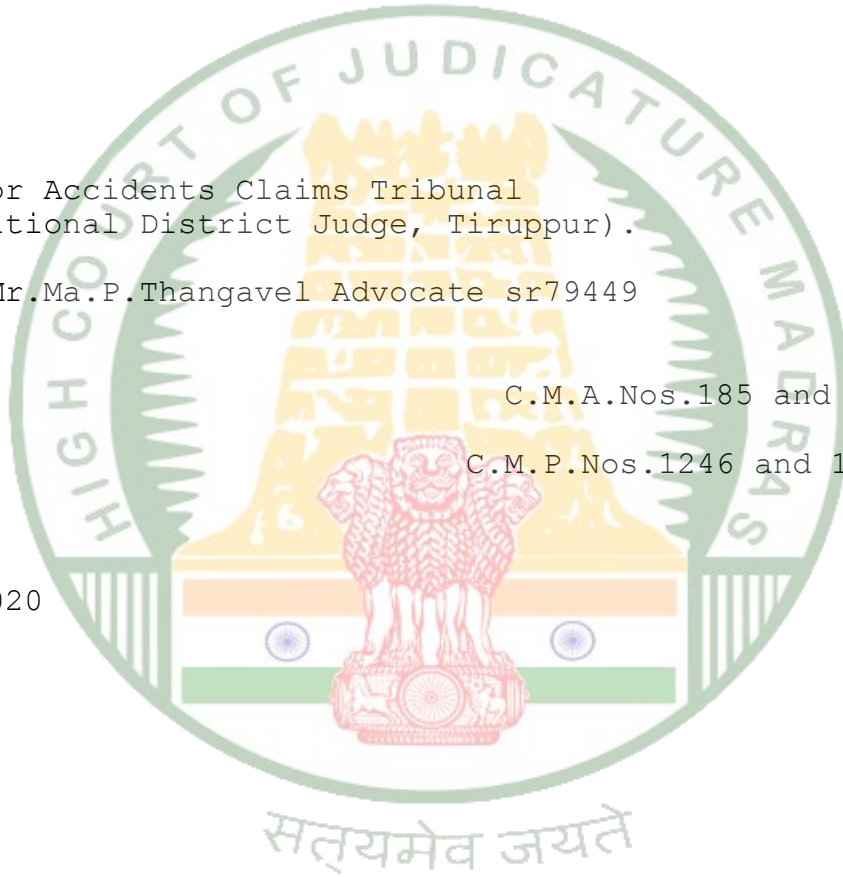
To

1.The Motor Accidents Claims Tribunal
(I Additional District Judge, Tiruppur).

+1 cc to Mr.Ma.P.Thangavel Advocate sr79449

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and
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