

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.Nos.3010 and 3021 of 2018
and C.M.P.Nos.22839 and 22908 of 2018

The Managing Director
Tamil Nadu State
Transport Corporation Ltd.,
Kumbakonam Division-I Limited
Railway station new road
Kumbakonam-612 001.

.. Appellant/R1 in
both CMAs.

Vs.

1.R.Pazhanivel
2.P.Rajathi ..RR1 & 2/Petitioners in CMA No.3010/2018
3.R.Uma ..R3/R2/Petitioners in CMA No.3010/2018
4.Minor R.Naviya @ Nathiya
(Minor represented by her next friend,
guardian and mother Uma)
..R4/R3 /Petitioners in CMA No.3010/2018

1.Uma
2.Minor Navya @ Nathiya ..RR1/R2 in CMA No.3021/18
(minor represented by her mother and guardian
first respondent)

3.Palanivel ..R3/R2 in CMA No.3021/18
4.Rajathi ..R4/R3 in CMA No.3021/18

PRAYER in C.M.A.No.3010 of 2018: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the judgment and decree dated 15.12.2016 made in M.C.O.P.No.2595 of 2014 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Cuddalore.

PRAYER in C.M.A.No.3021 of 2018: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the judgment and decree dated 21.12.2016 made in M.C.O.P.No.229 of 2014 on the file of the Motor Accidents Claims Tribunal, Principal Sub Court, Mayiladuthurai.

In both CMAs.
For Appellant : Mr.D.Venkatachalam

In C.M.A.No.3010 of 2018

For R2 : M/s.Ramya Rao
For R3 and R4 : Mr.T.Gobinath

In C.M.A.No.3021 of 2018

For R1 and R2 : Mr.T.Gobinath
For R4 : M/s.Ramya Rao

C O M M O N J U D G M E N T

C.M.A.No.3010 of 2018 is filed against the award dated 15.12.2016 made in M.C.O.P.No.2595 of 2014 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Cuddalore.

C.M.A.No.3021 of 2018 is filed against the award dated 21.12.2016 made in M.C.O.P.No.229 of 2014 on the file of the Motor Accidents Claims Tribunal, Principal Sub Court, Mayiladuthurai.

2.Both the appeals arise out of the two compensations awarded by two different Tribunals in respect of the death of one Ramesh. M.C.O.P.No.2595 of 2014 was filed by parents of the deceased Ramesh and M.C.O.P.No.229 of 2014 was filed by the wife and minor daughter of the deceased Ramesh. In both the appeals, the claimants in other claim petitions were shown as respondents.

3.Both the Tribunal considering the pleadings, oral and documentary evidence, held that the driver of the bus belonging to the appellant/Transport Corporation is responsible for the accident and granted compensations to the wife, minor daughter and parents of the deceased by two awards. In view of the two awards granting compensation for the death of the said Ramesh in two different claim petitions, the appellant/Transport Corporation has come out with the present appeals.

4.The learned counsel appearing for the appellant/Transport Corporation contended that the awards of the Tribunal are contrary to the evidence on record. Two claim petitions have been filed in respect of very same accident and for the death of one Ramesh. The claimants have suppressed the fact of other claim petition even though they were parties therein. In view of the same, prayed for allowing both the appeals and setting aside the awards as the respondents have suppressed the material fact.

5.The learned counsel appearing for the wife and minor daughter of the deceased contended that the parents of the deceased, who are the claimants in M.C.O.P.No.2595 of 2014 died and their second son, who is younger brother of the deceased Ramesh and who is residing in foreign country, has given a letter stating that he has no objection for the compensation being awarded to the wife and minor daughter of the deceased Ramesh alone and he has no objection in setting aside any one of the awards.

6.Heard the learned counsel appearing for the appellant/Transport Corporation as well as learned counsel appearing for the wife, minor daughter and parents of the deceased Ramesh and perused the materials available on record.

7.In view of the submissions made by both the learned counsel appearing for the wife, minor daughter and parents of the deceased, C.M.A.No.3010 of 2018 stands allowed setting aside the award of the Tribunal dated 15.12.2016 made in M.C.O.P.No.2595 of 2014 filed by the parents of the deceased on the file of the Motor Accidents Claims Tribunal, Principal District Court, Cuddalore.

8.As far as C.M.A.No.3021 of 2018 is concerned, in view of allowing of C.M.A.No.3010 of 2018, C.M.A.No.3021 of 2018 is dismissed confirming the award dated 21.12.2016 made in M.C.O.P.No.229 of 2014 filed by the wife and minor daughter of the deceased on the file of the Motor Accidents Claims Tribunal, Principal Sub Court, Mayiladuthurai. The respondents 1 and 2 in C.M.A.No.3021 of 2018, who are claimants in M.C.O.P.No.229 of 2014, are entitled to get entire compensation awarded by the Tribunal. The wife of the deceased Ramesh is entitled to a sum of Rs.50,000/-, the compensation which was awarded to the third respondent in M.C.O.P.No.229 of 2014 and second respondent/minor is entitled to a sum of Rs.67,000/-, the compensation which was awarded to the fourth respondent in M.C.O.P.No.229 of 2014, in addition to the amounts awarded to them. The first respondent/wife is permitted to withdraw her respective share from the award amount along with interest and costs, less the amount if any, already withdrawn. The share of the minor/second respondent is directed to be deposited in any one of the nationalised banks till she attains majority. The first respondent being mother of the second respondent is permitted to withdraw the interest once in three months for the welfare of the minor. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

To

1.The Principal District Judge,
The Motor Accidents Claims Tribunal
Cuddalore.

2.The Principal Subordinate Judge,
The Motor Accidents Claims Tribunal
Mayiladuthurai.

3. The Section Officer,
VR Section, High Court, Madras-600 104

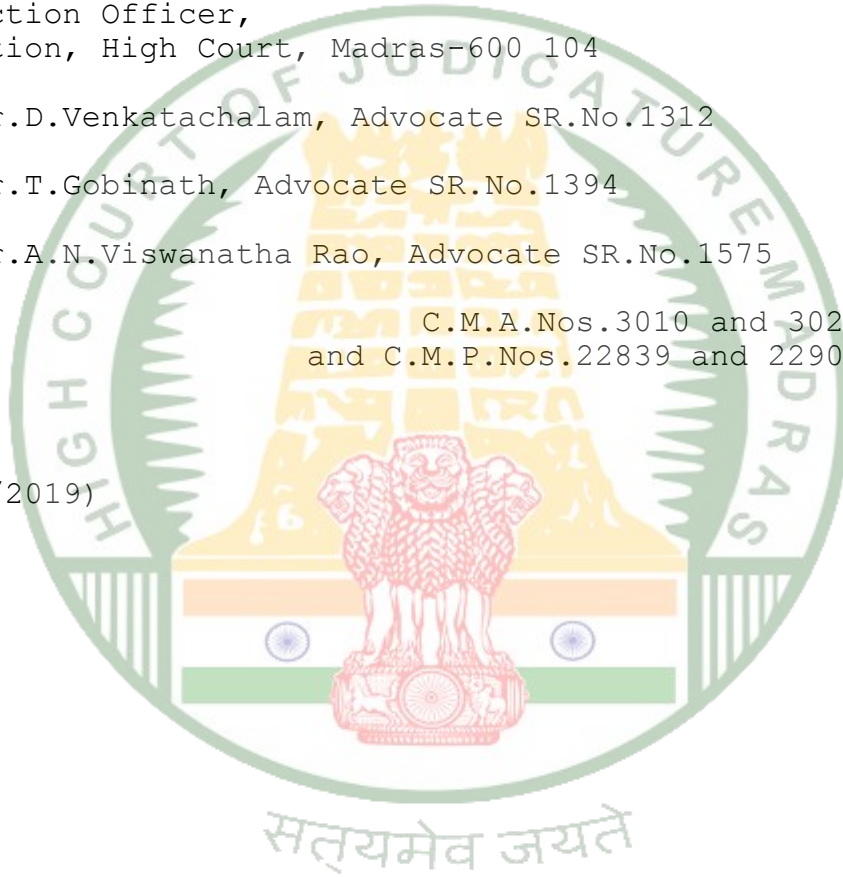
+1cc to Mr.D.Venkatachalam, Advocate SR.No.1312

+1cc to Mr.T.Gobinath, Advocate SR.No.1394

+2cc to Mr.A.N.Viswanatha Rao, Advocate SR.No.1575

C.M.A.Nos.3010 and 3021 of 2018
and C.M.P.Nos.22839 and 22908 of 2018

EV (CO)
GMY (27/12/2019)



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