

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1672 of 2010

1. Visalatchi
2. Murugesan
3. Kumarasamy ... Appellant/Claimants

Vs.

1. Nagarajan
2. The Tamil Nadu State Transport Corporation Ltd.,
Rep by its Managing Director,
Railway Station New Road,
Kumbakonam, Thanjavur District. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in MACTOP.No.232 of 2004 dated 29.12.2006 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Puducherry.

For Appellant : Mr.S.Sounthar.

For Respondents : R1 - Mr.S.Rajinikanth.
R2 - Mr.K.S.Sivakumar.

J U D G M E N T

The appellants are the claimants filed this appeal, against the judgment and decree made in MACTOP.No.232 of 2004 dated 29.12.2006 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Puducherry.

2. The case of the claimants/appellants is that on 04.09.2004 at 9.00pm, the deceased Saminathan was riding his motorcycle Hero Honda bearing Reg.No.TN50-C-2064 from north to south on the extreme left side of the road at Vanjore just opposite to Pondicherry power plant corporation, the 1st respondent drove the CRC load van bearing Reg.No.TMI-5107 came in the opposite direction in a very rash and negligent manner with an idea to avoid a ditch on the road unable to control the vehicle and hit against the deceased Saminathan. Due to such

impact, deceased Saminathan sustained severe injuries on his right side neck, shoulder and died instantaneously, immediately he was taken to Government Hospital, Karaikal. A case in Cr.No.125 of 2004 was registered on the file of T.R.Pattinam police for the offence under Section 304-A IPC.

3. The learned counsel for the second respondent/insurance company stated that the claimants have not impleaded the owner of the motorcycle and the insurer as necessary parties. The deceased was driving rashly and dashed against the van, the deceased has also consumed alcohol at the time of accident.

4. In order to prove the case of the claimants, the claimants have examined PW1 and PW2 and marked Ex.P1 to Ex.13. No oral and documentary evidence has been adduced on the side of the respondents.

5. Heard both sides and perused the materials available on record.

6. The learned counsel for the appellants submits that the Tribunal failed to appreciate the evidence of PW1 and PW2 in proper perspective. The Tribunal ought to have fixed the monthly income of the deceased at Rs.6,000/-p.m. based on the periodical premium payment capacity of the deceased, which shows the deceased has sufficient source of income.

7. The learned counsel for the second respondent/insurance company submits that the Tribunal has fixed the compensation which is fair and reasonable.

8. From the available records, it is seen that the tribunal has rightly fixed the compensation at Rs.50,000/- by adopting the multiplier "17" as per the Schedule II of the compensation in thousands is 50. A sum of Rs.2,000/- towards funeral expenses was granted. This Court is not inclined to enhance the compensation, since, the counsel for the appellants have not satisfied the Court with adequate documents for enhancing the compensation. The Doctor who was examined as PW2 has stated that the deceased had consumed alcohol before his death but not established the quantity of the liquor consumed by the deceased. The learned counsel for the appellants failed to disprove this aspect that the deceased was in an intoxication state while driving the vehicle.

9. Hence, this Court is inclined to dismiss the appeal filed by the claimants. There is no contra material produced before this Court to interfere with the award passed by the Tribunal.

10. In the result, the civil miscellaneous petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal,
Additional District Judge,
Puducherry.

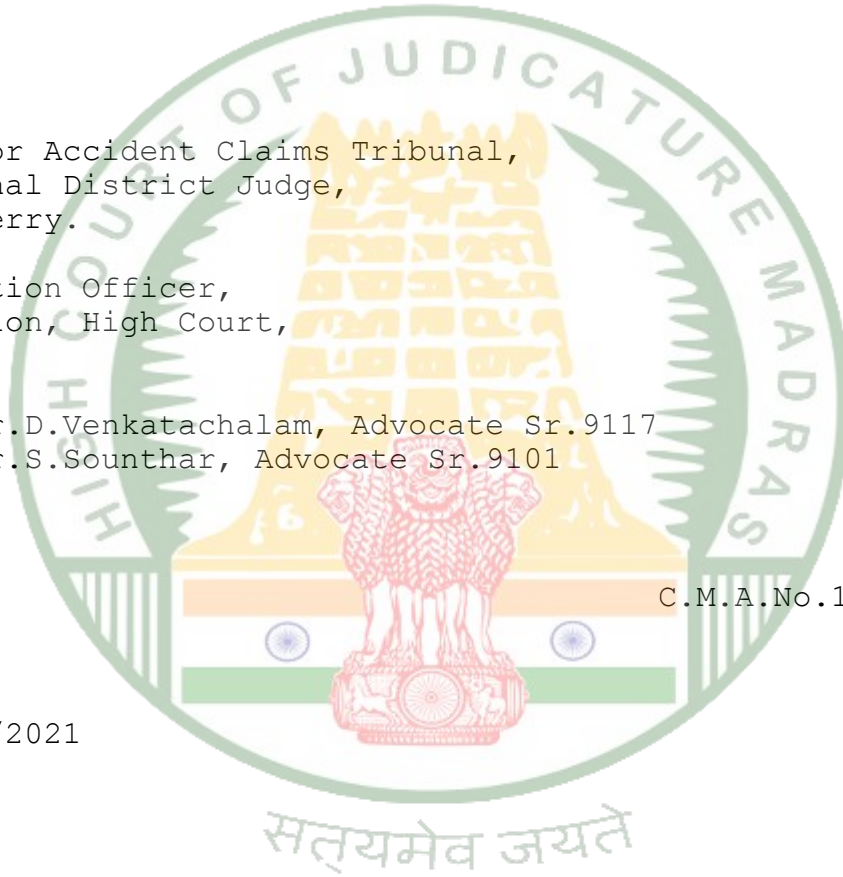
2.The Section Officer,
VR Section, High Court,
Madras.

+lcc to Mr.D.Venkatachalam, Advocate Sr.9117

+lcc to Mr.S.Sounthar, Advocate Sr.9101

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