

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2020

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1234 of 2012

The Managing Director,
Tamil Nadu State Transport
Corporation, Villupuram Division,
Chidambaram Branch.

... Appellant/Respondent

..Vs..

1. S.Pushpa
2. S.Sampath

... Respondents/Claimants

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 11.08.2011 made in MCOP. No.659 of 2009 on the file of the Motor Accident Claims Tribunal, Fast Track Court-I, Poonamallee.

For Appellant : Mr.Arunkumar Meganathan
For Mr.S.Sai Raman
For Respondents 1 and 2 : Not ready in notice

J U D G M E N T

(This Appeal was taken up for hearing through
Video Conferencing)

This appeal has been filed by the Appellant/transport corporation challenging the common award dated 11.08.2011 passed by the Motor Accident Claims Tribunal, Fast Tract Court-I, Poonamallee in MCOP.Nos.654 and 659 of 2009.

Brief facts leading to the filing of this Appeal:

2. On 06.08.2009, around 20.30 hours, when Senthilkumar and Gangadharan were travelling in a car bearing Registration No.TN 07 S 4615 on ECR from Kovalam, near Muttukadu, the appellant's bus bearing Registration No.TN 32 N 3037, hit the car. Due to the accident, the both died on the spot. The respondents, who are the legal representatives and also the dependents of the of Senthilkumar (deceased) have preferred a claim before the Motor Accident Claims Tribunal (Sub Court) at Poonamallee in MCOP.No.659 of 2009 seeking compensation for the death of Senthilkumar.

3. It is the case of the claimants that it is only due to

the rash and negligent driving by the driver of the bus bearing registration No. TN 32 N 3037, owned by the appellant/transport corporation, the accident had happened, which resulted in the death of the said Senthilkumar.

4. The Motor Accident Claims Tribunal, after considering the materials and evidence available on record, passed the common award on 11.08.2011 directing the Appellant /transport corporation to pay the respondents 1 and 2 a sum of Rs.4,50,000/- together with interest and costs as compensation.

5. The break-up details of the award passed by the Tribunal in favour of the respondents are as follows:

Sl.No.	Head	Amount awarded by the Tribunal (Rs.)
1	Loss of dependency	4,20,000/-
2	Loss of love and affection	20,000/-
3	Funeral expenses	10,000/-
	Total	4,50,000/-

6. Challenging the said award dated 11.08.2011 passed in MCOP. No.659 of 2009, the transport corporation has filed this appeal on the following grounds:

a. The adverse findings of negligence as against the driver of the bus owned by the appellant/transport corporation is contrary to the evidence available on record.

b. they have also challenged the award on the ground that the compensation awarded by the Tribunal is excessive.

7. Heard Mr.Arunkumar Meganathan, learned counsel appearing for the Appellant. Since this Court is going to confirm the award passed by the Tribunal, notice to respondents 1 and 2 is dispensed with.

8. Before the Tribunal, the claimants in both the petitions, have filed nine documents, which were marked as Ex.P1 to Ex.P9 and examined three witnesses viz., P.W1 and P.W.2 are the respective mothers of the deceased persons and P.W.3- an eyewitness to the accident. On the side of the respondent/transport corporation, one witness was examined and no document was marked.

9. It is seen from the records that FIR has been marked as Ex.P1, which reveals that the driver of the bus owned by the appellant/transport corporation is responsible for the cause of

accident. Further, it is seen that the age of the deceased and the cause of the accident, which resulted in the death of S.Senthilkumar, has not been disproved by the appellant/transport corporation by adducing any contra evidence establishing the negligence on the part of the deceased. In fact, before the Tribunal, no documentary evidence was produced by the appellant/transport corporation, except for letting in oral evidence through RW1. Since there were contradictions as regards the age of the deceased between the post-mortem certificate, which was marked as Ex.P6 and the legal heirship certificate marked as Ex.P7, the Tribunal has rightly taken into account the higher age of the deceased and fixed the same as 45 years as found in Ex.P7, the legal heirship certificate.

10. It was the contention of the claimants that the deceased was a driver and was earning a monthly income of Rs.10,000/- at the time of the accident and in support of the same, his salary certificate was marked as Ex.P8 before the Tribunal. Despite Ex.P8/salary certificate, the said document was not accepted by the Tribunal as it was not proved through proper witness. The Tribunal assessed the monthly income of the deceased on notional basis at Rs.6,000/-. Considering the year of the accident, which is on 06.08.2009, the assessment of the monthly income at Rs.6,000/- is a reasonable sum. The deceased was a bachelor at the time of his death and the Tribunal has rightly deducted 50% towards personal expenses of the deceased. The Tribunal has also applied the correct multiplier of '14', since the deceased was aged 45 years, at the time of his death. The loss of dependency calculated by the Tribunal at Rs.4,20,000/-, loss of love and affection for the two claimants was assessed at Rs.20,000/- and Rs.10,000/- towards compensation for funeral expenses in all amounting to a total sum of Rs.4,50,000/- is a just compensation, which does not call for any interference by this Court.

11. Insofar as the adverse finding of negligence by the Tribunal, on the driver of the bus, owned by the appellant/transport corporation is concerned, the same is supported by the FIR and the oral evidence adduced by the respondents/claimants. No contra evidence has been produced by the appellant/transport corporation before the Tribunal to disprove the contents of the FIR and the oral evidence of the respondents /claimants. While that be so, the Tribunal has rightly held that the appellant/transport corporation is liable to compensate the claimants.

Conclusion:

12. For the foregoing reasons, this Court does not find any merit in this appeal. Accordingly, this appeal shall stand dismissed. The Appellant transport corporation is directed to

deposit the Award amount together with interest from the date of claim till the date of deposit and costs as assessed by the Tribunal, after deducting the amount, if any, already deposited to the credit of MCOP.No.659 of 2009 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the respondents/claimants are permitted to withdraw the award amount lying to the credit of MCOP.No.659 of 2009 along with the accrued interest by filing an appropriate application. No costs.

-Sd/-

Asst.Registrar (CO)

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Sub Asst. Registrar

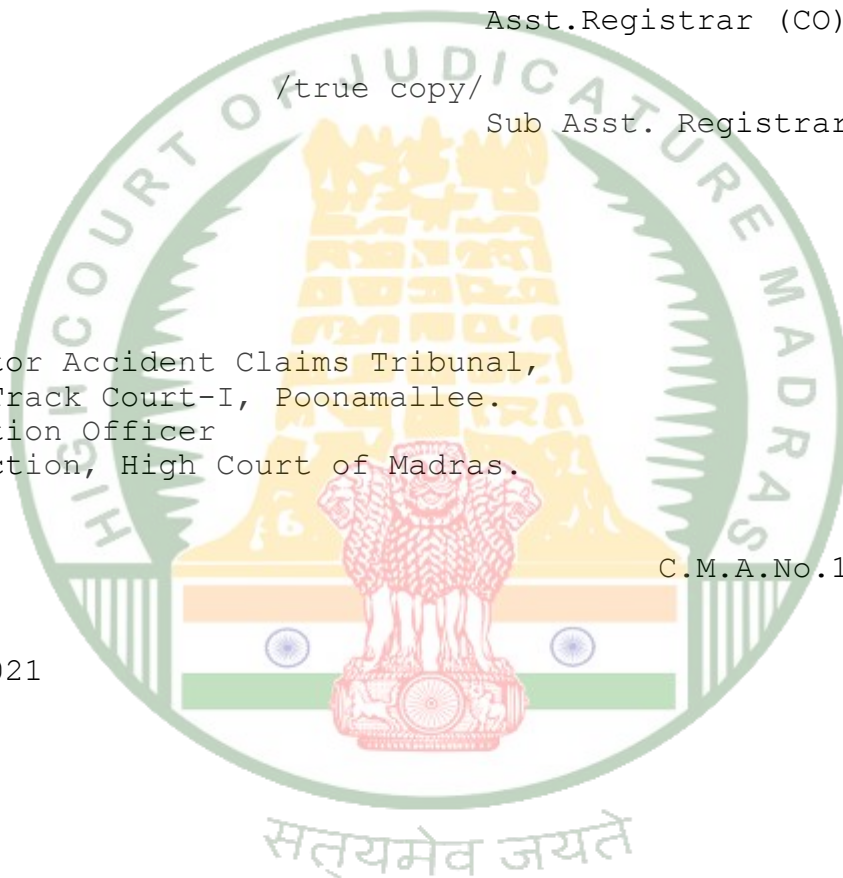
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To

1. The Motor Accident Claims Tribunal,
Fast Track Court-I, Poonamallee.
- 2.The Section Officer
V.R.Section, High Court of Madras.

C.M.A.No.1234 of 2012

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