

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.M.A.No.1570 of 2020
and
C.M.P.No.11566 of 2020

The Regional Manager,
A.P.S.R.T.C. Puthur,
Chittur District, Andhra Pradesh ... Appellant/Respondent

Vs.

1. Karuna
2. Minor Thamizharasan
3. Minor Deva Arasi .. Respondents/Claimants

(Minor rep. By their Father 1st respondent Karuna)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Order and Decree dated 20.03.2019 made in M.C.O.P.No.905 of 2016, on the file of the Motor Accident Claims Tribunal / District Judge, District Court - II, Kanchipuram.

For Appellant : Ms.G.V.Shoba

For Respondents : Mr.C.Prabakaran

J U D G M E N T

The appeal has been filed by the Transport Corporation challenging the Award passed by the Motor Accident Claims Tribunal / District Judge, District Court - II, Kanchipuram in M.C.O.P.No.905 of 2016, dated 20.03.2019.

2. It is a case of fatal accident. The claimants are the husband and two minor children of the deceased. According to the claimants on 06.03.2016, at about 04.15 p.m. when the deceased was riding along with him in a two wheeler as pillion rider from

Satasivakona Road to Puthur direction, the bus belonging to the appellant Transport Corporation came in the opposite direction in a rash and negligent manner and dashed against them, in which, the deceased sustained grievous injuries and died on the spot. Thereafter, a claim petition was filed by the husband and two minor children claiming compensation to the tune of Rs.20,00,000/-. However, the Tribunal has awarded a sum of Rs.14,74,000/- as compensation. Aggrieved over the same, the appellant / Transport Corporation has filed the present appeal.

3. I have heard the learned counsel appearing for the appellant and also perused the records carefully.

4. So far as the negligence is concerned, the first respondent who was examined as P.W.1 was driving the motorcycle and he was an eye witness to the occurrence. Apart from that one Mr.Sundar an another eye witness to the occurrence was examined as P.W.2. Their evidence clearly reveals that only due to the rash and negligent driving of the Transport Corporation bus the accident has taken place.

5. So far as the quantum of compensation is concerned, it is the case of the claimants that the deceased was a silk weaver and she was earning a sum of Rs.25,000/- per month. However, the Tribunal only fixed the monthly income at Rs.7,500/- and at the time of the accident, the deceased was 33 years old and hence the Tribunal added 40% towards future prospectus and deducted 1/3 towards her personal expenses and fixed the monthly income of the deceased as Rs.7,000/- and also applied multiplier 16 and arrived at a sum of Rs.13,44,000/-. The Tribunal has further awarded a sum of Rs.15,000/- towards loss of estate, Rs.1,00,000/- towards loss of consortium to the husband and two minor children and Rs.15,000/- towards funeral and transport expenses. Thus, the Tribunal has awarded a sum of Rs.14,74,000/- as compensation.

6. So far as the monthly income of the deceased is concerned, it is stated that she was a silk weaver and earning a sum of Rs.25,000/- per month. However, there is no documentary evidence except the oral evidence of P.W.1. Even assuming that the deceased is a agricultural coolie and she was 33 years old, she can easily earn Rs.7,500/- per month. Therefore, there is no error on the part of the Tribunal in fixing the monthly income of the deceased at Rs.7,500/-. So far as the Award of compensation under other heads are concerned, the order of the Tribunal is in conformity with the judgments of the Hon'ble Supreme Court in Sarla Verma Vs. Delhi Transport Corporation reported in (2009) 6 SCC 121 and National Insurance Company Limited vs. Pranay Sethi and Ors reported in (2017) 16 SCC 680.

7. In view of the above, I do not find any error or illegality in the order passed by the Tribunal warranting interference. There is no merit in the appeal and the appeal is liable to be dismissed and accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

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Sub Assistant Registrar

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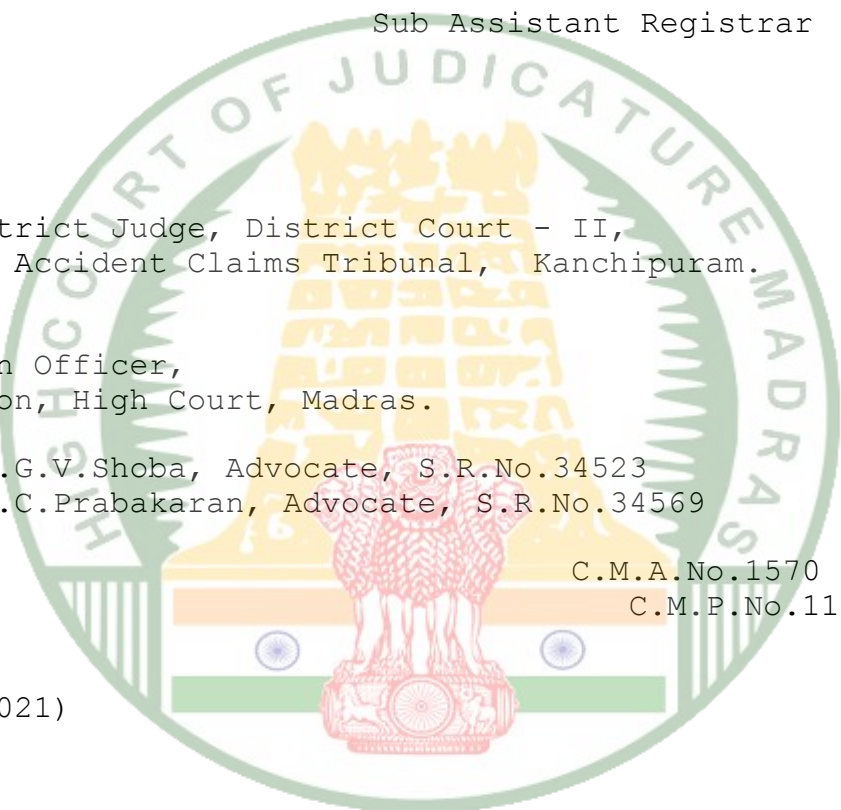
1. The District Judge, District Court - II,
Motor Accident Claims Tribunal, Kanchipuram.

Copy to:
The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.G.V.Shoba, Advocate, S.R.No.34523
+1cc to Mr.C.Prabakaran, Advocate, S.R.No.34569

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C.M.P.No.11566 of 2020

SSI (CO)
CB(27/05/2021)

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सत्यमेव जयते

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