

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2205 of 2013

Managing Director,
Tamil Nadu State Transport Corporation,
(Division) Ltd.,
Villupuram District. Appellant/2nd Respondent

..Vs..

1. Rathinavalli
2. Vanaveeran
3. Minor Saranya
4. Minor Gnanasoundari
5. Minor Alexander
6. Minor Aravindan Respondents 1 to 6/ Petitioners
Minor 3 to 6 represented by their father
and their natural guardian Vanaveeran

7. Gopu 7th Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order of the lower Court dated 05.06.2012 made in MCOP. No.84 of 2011 on the file of the Motor Accident Claims Tribunal, (Sub Court) Chidambaram.

For Appellant : Mr.C.S.K.Sathish

For Respondents : Mr.Gobinath for
M/s.Royan Law Associates R1 to R6
Not ready in notice reg. R7

JUDGMENT

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

This appeal has been filed by the Transport Corporation challenging the impugned award dated 05.06.2012 passed by the Motor Accident Claims Tribunal (Sub Court), Chidambaram in MCOP.No.84 of 2011.

2. A person by name Asokan, died on 01.10.2009, as a result of an accident caused by a bus bearing Registration No.TN 32 N 2333 owned by the Appellant/transport corporation.

3. The legal representatives of the deceased, who are the parents and brothers of the deceased viz., respondents 1 to 6, have preferred a claim before the Motor Accident Claims Tribunal seeking compensation for the death of Asokan as a result of the accident.

4. The Tribunal, under the impugned award, has directed the appellant/transport corporation to pay the respondents 1 to 6, who are the legal heirs of the deceased Asokan, a compensation of Rs.12,41,000/- together with interest and costs for the death of Asokan.

5. The details of the award passed by the Tribunal in favour of the claimants/respondents 1 to 6 are as follows:

Head	Award passed by the Tribunal (Rs.)
Loss of income	12,24,000/-
Transportation	7,000/-
Funeral Expenses	10,000/-
Total	12,41,000/-

6. The appellant/Transport Corporation has challenged the impugned award on the following grounds:-

a. The assessment of the notional monthly income of the deceased at Rs.9,000/- is on the higher side and it has to be reduced.

b. The Tribunal has erroneously deducted 1/3rd amount towards personal expenses of the deceased instead of 50% as the deceased was a bachelor at the time of the accident.

7. Heard Mr.C.S.K.Sathish, learned counsel for the appellant /transport corporation and Mr.Gobinath, learned counsel for the respondents 1 to 6/claimants.

8. Before the Tribunal, the respondents 1 to 6 /claimants have filed six documents, which were marked as Ex.P1 to Ex.P6 and two witnesses were examined on their side, namely, PW1-Rathnavalli, mother of the deceased Asokan and PW2 - Manthiri kumar, an eyewitness to the accident as PW2. On the side of the appellant/transport corporation, neither any document was filed nor any witness examined before the Tribunal.

9. The contention of the appellant/transport corporation in this appeal is that the notional monthly income fixed by the Tribunal is on the higher side. According to the appellant, without any basis, the Tribunal has fixed the monthly income of the deceased at Rs.9,000/-.

10. As seen from the impugned award, the Tribunal has not awarded any compensation towards loss of future prospects to the respondents 1 to 6 /claimants. The compensation awarded by the Tribunal, under the other heads viz., transportation and funeral expenses are low and not in accordance with the decision of the Hon'ble Supreme Court in the case of National Insurance Company Limited vs. Pranay Shethi and Others reported in 2017 (16) SCC 680. Even though, there may be force in the contention of the appellant that the assessment of the notional monthly income of the deceased at Rs.9,000/- is on the higher side, this Court is of the considered view that after taking an overall view of the matter and in view of the fact that the Tribunal has failed to award any compensation towards loss of future prospects and has also awarded inadequate compensation towards other heads, the total compensation of Rs.12,41,000/- awarded by the Tribunal under the impugned award to the claimants cannot be treated as excessive as alleged by the appellant/transport corporation in this appeal. If loss of future prospects and compensation under various other heads was granted as per settled practice, the compensation awarded would have been much higher.

Conclusion:

11. For the foregoing reasons, there is no merit in this appeal. Accordingly, this Appeal shall stand dismissed.

12. The Appellant/Transport Corporation is directed to deposit the Award amount together with interest from the date of claim petition 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.84 of 2011, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the amount to the bank account of the respondents 1 and 2/claimants through RTGS within a period of two weeks thereafter.

13. Insofar as the share of the respondents 3 to 6/minor claimants are concerned, the same shall be deposited in a fixed deposit in any one of the Nationalized Banks till they attain the age of majority, and till such time, the interest accrued thereon shall be withdrawn by the guardian of the minor claimants once in three months, directly from the Bank. If the

respondents 3 to 6/minor claimants have attained the age of majority, it is open to them to file a formal petition before the Tribunal to get their share of apportionment.

14. In the result, this appeal is dismissed. There is no order as to costs.

Sd/-

Assistant Registrar(CS IX)

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Sub Assistant Registrar

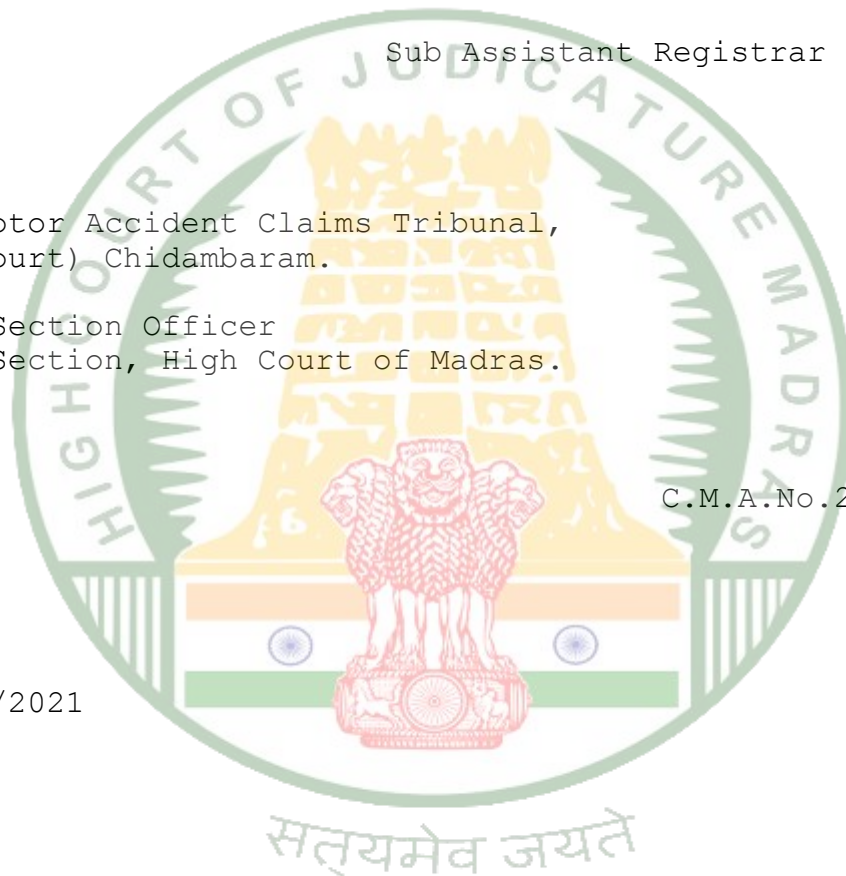
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To

1. The Motor Accident Claims Tribunal,
(Sub Court) Chidambaram.
2. The Section Officer
V.R.Section, High Court of Madras.

C.M.A.No.2208 of 2013

BS(CO)
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