

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 19.11.2020

CORAM::

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.A.NO.2245 OF 2016

&

C.M.P.NO.15899 OF 2016

The Managing Director,
TNSTC, Villupuram Division,
Villupuram.

... Appellant/Respondent

/versus/

1. Valarmathi,
2. T.Sri Ram,
3. Minor Venugopal,
S/o.Late Thirunarayan
Represented Guardian Mother,
T.Valarmathi, No.12, S.P.Koil Street,
Chidambaram

... Respondents/Claimants

Prayer:

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, praying against the judgment and decree passed by the Motor Accident Claims Tribunal, II Additional District and Sessions Judge, Chidambaram, in M.C.O.P.No.172/2011 dated 25.09.2014.

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

For Respondents : No appearance

J U D G M E N T

(The case has been heard through video conference)

Heard the Learned Counsel for the appellant.

2. This Appeal is filed by the Transport Corporation challenging the award passed against the Corporation by the Motor Accident Claims Tribunal. The facts of the case is that, one V.Thirunarayanan, working as a Village Administrative Officer at Chidambaram, died in the road accident occurred on 12.07.2009, while he was riding his motorcycle near Madurantaga Nallur. The bus owned by the Transport Corporation coming from opposite direction dashed against him, in which, he died on the spot. Hence, claim petition was filed by his wife and children, seeking a sum of Rs.15,00,000/- as compensation, claiming that at the time

of his death, the deceased Thirunarayanan was earning a sum of Rs.20,000/- per month and from his agricultural land and he was 55 years old hale and healthy at the time of death. His wife and two children sought for compensation, since, they were depending on the deceased.

3. The claim petition is filed against the Transport Corporation. The said claim was contested by the Transport Corporation on the ground that the accident occurred due to negligence of the deceased who was riding his two wheeler using his cellphone and dashed the bus carelessly. The quantum of compensation claimed was also disputed.

4. The Tribunal, based on the First Information Report and charge sheet filed against the bus driver, negatived the defence raised by the Transport Corporation regarding negligence and awarded a sum of Rs.12,06,832/- as compensation.

5. In this appeal, it is contended by the Learned Counsel of the appellant/Transport Corporation that the tribunal has not properly fixed the income of the deceased and the multiplier applied is also erroneous. The compensation awarded under other non-conventional head also questioned in this appeal.

6. Heard the Learned Counsel for the appellant/Transport Corporation and perused the records.

7. The Tribunal, based on the post-mortem certificate had fixed the age of the deceased as 55 years and has applied multiplier 11, which is in consonance with the dictum laid down by the Hon'ble Supreme Court in Sarala Verma case. Taking into consideration, Ex.P.5 pay certificate issued by Tahsildar, Chidambaram, the Tribunal has fixed the annual income of the deceased as Rs.1,57,068/-, and had deducted 1/3rd towards the personal expenditure. For loss of earning awarded a sum of Rs.11,51,832/- and for other non-conventional heads tribunal has awarded another a sum of Rs.55,000/-.

8. From the evidence, this Court finds that being a salaried person and already reached 55 years of age, by 3 years period he should have attained superannuation and will be drawing only pension. The Tribunal ought to have applied the split multiplier. However, in such case, there may be some variation in the fixation of loss of income. In the absence of evidence that he is eligible for pension and compensation cannot be fixed with mathematical precision. Therefore, on cumulative assessment, for the death of 55 years old man serving as a Village Administrative Officer, the compensation of Rs.12,06,832/- for his untimely death is the road accident appears to be fair and adequate.

9. This Court finds no reason to interfere that the award passed by the Tribunal. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS V)

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Sub Assistant Registrar

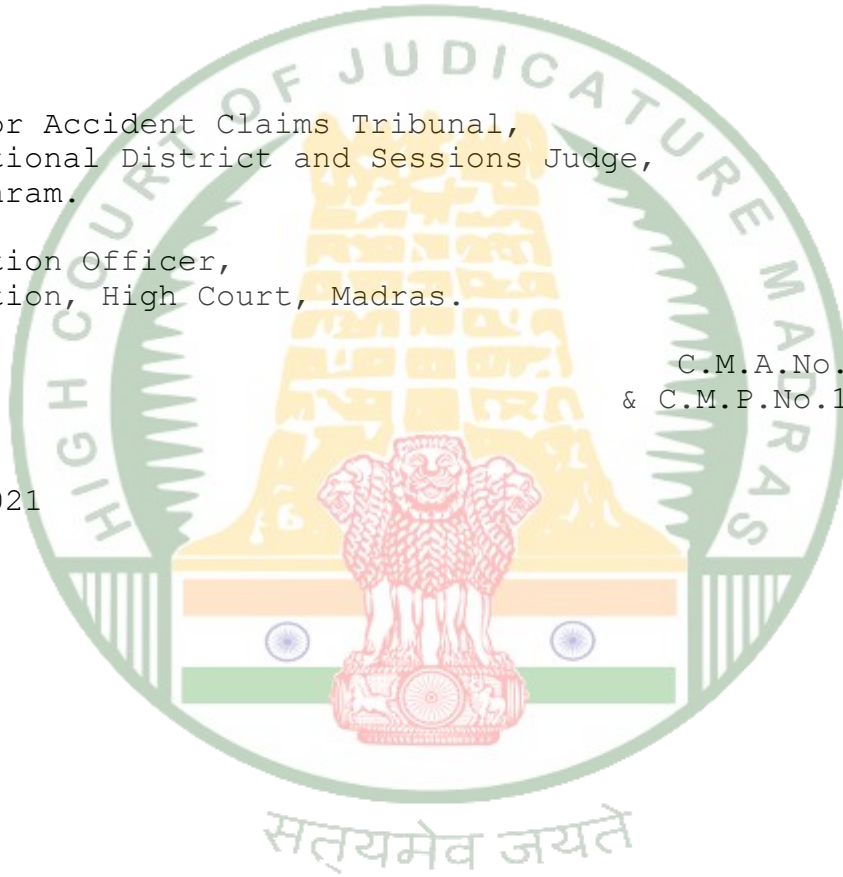
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To:-

1. The Motor Accident Claims Tribunal,
II Additional District and Sessions Judge,
Chidambaram.
2. The Section Officer,
V.R.Section, High Court, Madras.

C.M.A.No.2245 of 2016
& C.M.P.No.15899 of 2016

RSV (CO)
CS/17/06/2021



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