

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.369 of 2016
and
C.M.P.No.2728 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
3/1337, Salamedu,
Vazhuthareddy,
Villupuram. ... Appellant/1st Respondent

Vs.

1.R.Elamparithi
2.R.Dhinakaran
3.R.Janarthanan ... Respondents 1 to 3/
Petitioner 1 to 3
4.Sagunthala
5.Kanagavalli ... Respondents 4 & 5/Respondents 2 & 3

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 20.07.2015 made in M.C.O.P.No.3041 of 2012 on the file of the Motor Accident Claims Tribunal, The Principal District Judge at Cuddalore.

For Appellant : Mr.K.J.Sivakumar
For Respondents: M/s.Ramya V.Rao
[For R2 & R3]
Not Ready in Notice
[For R1, R4 & R5]

JUDGMENT

The civil miscellaneous appeal is filed against the judgment and decree dated 20.07.2015 passed in M.C.O.P.No.3041 of 2012.

2. The accident occurred on 10.12.2011 at Kadampuliyur at about 9.15 P.M. The deceased was aged about 48 years and he was a fruit merchant. The claim petition was filed, claiming compensation of a sum of Rs.15,00,000/-. The Tribunal

adjudicated the issues and arrived a conclusion that the accident was established by the claimant and it occurred due to the rash and negligent driving of the Transport corporation bus driver. Accordingly, the appellant Transport Corporation was held liable to pay compensation to the claimants. As far as the quantum of compensation, the learned counsel for the appellant mainly contended that the compensation granted is excessive and the Tribunal has not ascertained the correct monthly income of the deceased and therefore, the compensation awarded is to be reduced. There is no valid document produced to establish the age of the deceased person. In the absence of any document to ascertain the correct age of the deceased and the income of the deceased, the Tribunal ought not to have fixed the yearly income as Rs.72,000/-. Thus, the fixation of monthly income by the Tribunal is inappropriate.

3. Perusal of the entire award reveals that the deceased was a fruit merchant. Thus, the yearly income of a sum of Rs.72,000/- cannot be said to be exorbitant. The accident occurred in the year 2011 and the deceased was the breadwinner of the family and the total legal heirs are 5 and 3 sons are claimants and the mother of the deceased are the respondents.

4. Considering the facts and circumstances as well as the total amount of compensation awarded by the Tribunal, this Court do not find any perversity or infirmity and in a case of death, the Tribunal has awarded total compensation of a sum of Rs.7,72,000/-, which cannot be construed as unjust and in fact is to be construed as just.

5. Thus, the judgment and decree dated 20.07.2015 in M.C.O.P.No.3041 of 2012 is confirmed and the civil miscellaneous petition in C.M.A.No.369 of 2015 stands dismissed. The appellant is direct to deposit the entire award amount along with the interest at the rate of 7.5% per annum within a period of (6) six weeks from the date of receipt of a copy of this judgment, if not already deposited and on such deposit, the respondent/claimants permitted to withdraw the entire amount by filing an appropriate application before the Tribunal and the payments are to be made through RTGS. The judgment and decree dated 20.07.2015 in M.C.O.P.No.3041 of 2012 is confirmed, except the rate of interest, which is revised as 7.5% per annum. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CCC)

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Sub Assistant Registrar

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To

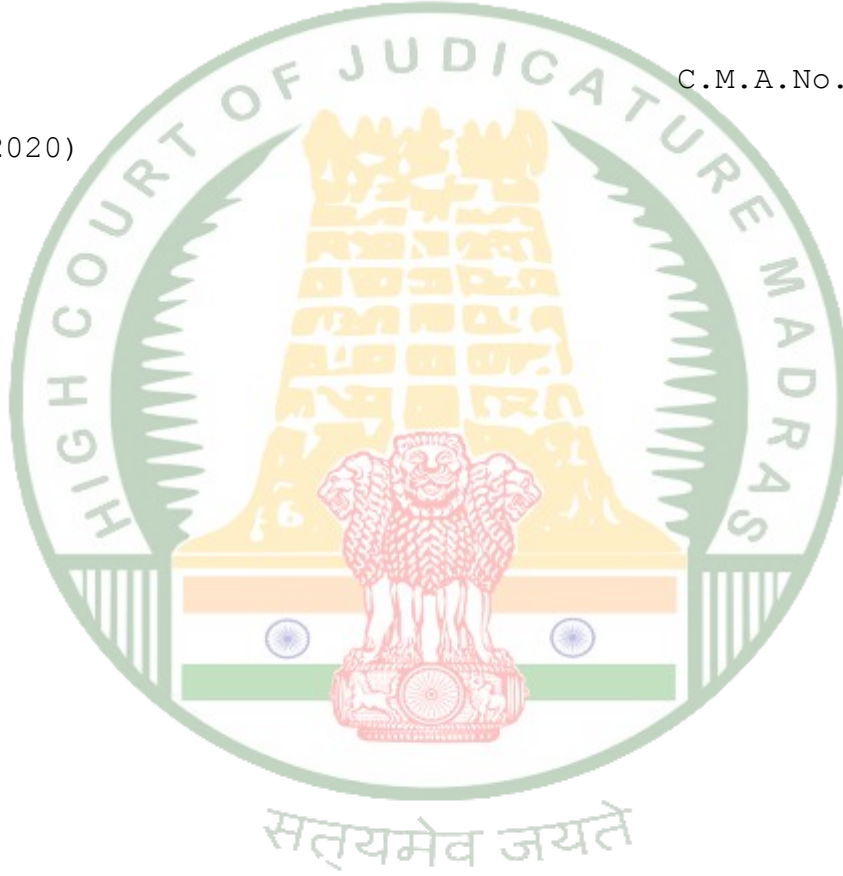
1.The Section Officer,
V.R Section,
High Court, Madras.

2.The Principal District Judge
(Motor Accidents Claims Tribunal),
Cuddalore.

+lcc to Mr.K.J.Sivakumar, Advocate, S.R.No.22897

C.M.A.No.369 of 2016

PP(CO)
GN(15/09/2020)



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