

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.08.2020
CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.187 of 2014

The Managing Director,
Tamil Nadu State Transport
Corporation Villupuram Ltd.,
No.3/137, Salamedu,
Vazhudareddy Post,
Villupuram District.

.... Appellant/ Respondent

..Vs..

1. Moorthy
2. Minor Rajesh
3. Minor Girija
4. Minor Viji@ Dhanasekaran
(2 to 4 are minors
rep. By their father and natural
guardian Moorthy)

.... Respondents/ Respondents

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 21.12.2012 made in MCOP. No.165 of 2011 on the file of the Motor Accident Claims Tribunal, (Subordinate Court) Cheyyar, Thiruvannamalai District.

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

For Respondents: Not ready in notice regarding R1 to R4

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 21.12.2012 passed by the Motor Accident Claims Tribunal (Subordinate Court), Cheyyar in MCOP.No.165 of 2011.

2. The appellant/transport corporation has challenged the impugned award on the ground that the quantum of compensation awarded by the Tribunal is excessive.

3. The respondents 1 and 4 are the legal representatives of the deceased Dharani, who died on 31.07.2011 as a result of an accident caused by a bus bearing Registration No.TN 32 N 2372, owned by the appellant/transport corporation. The claimants/respondents 1 to 4, who are the husband and children of the deceased, have preferred a claim before the Motor Accident Claims Tribunal (Subordinate Judge), Cheyyar in MCOP.No.165 of 2011 seeking compensation for the death of Dharani.

4. The Motor Accident Claims Tribunal, under the impugned award, directed the appellant/transport corporation to pay a sum of Rs.5,86,000/- together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization and costs as compensation to the respondents 1 to 4/claimants, who are the husband and minor children of the deceased.

5. The break-up details of the award passed by the Tribunal in favour of the respondents 1 to 4/claimants are as follows:

Head	Award passed by the Tribunal (Rs.)
Loss of income	5,76,000/-
Funeral expenses	5,000/-
Loss of love and affection	5,000/-
Total	5,86,000/-

6. Heard Mr.C.S.K.Sathish, learned counsel for the appellant /transport corporation

7. Before the Tribunal, the claimants have filed eight documents, which were marked as Exs.P1 to P8 and one witness was examined on their side, namely, PW1- husband and son of the deceased. On the side of the respondents, one witness was examined viz., RW1 - driver of the bus and there is no documentary evidence filed before the Tribunal.

8. The respondents/claimants, in their claim petition have pleaded that the deceased Dharani was aged 30 years at the time of the accident and was an insurance policy agent as well as a milk vendor, earning Rs.6,000/- per month. The accident happened in the year 2011. The Tribunal has assessed the notional monthly income of the deceased at Rs.4,000/-. Since the year of the accident is 2011, the assessment of the notional monthly income of the deceased at Rs.4,000/- is a correct assessment and does not call for any interference by this Court. The Tribunal has also applied the correct multiplier '16', considering the fact that the deceased was aged 35 years as per Ex.P2-Post mortem

certificate. The loss of earning power of the deceased assessed at Rs.5,76,000/- by the Tribunal under the impugned award is in accordance with the decision of the Hon'ble Supreme Court in the case of Sarla Verma & others Vs. Delhi Transport Corporation and another reported in 2009(2) TN MAC 1 (SC). Further, the compensation awarded to the respondents 1 to 4/claimants towards funeral expenses and loss of love and affection at Rs.5,000/- each are also low. Therefore, there is no scope for interference by this Court.

Conclusion:

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

10. The Appellant/transport corporation is directed to deposit the entire 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.165 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 first respondent/claimant through RTGS within a period of two weeks thereafter.

11. Insofar as the share of the respondents 2 to 4/minor claimants are concerned, the same shall be deposited in a fixed deposits in any one of the Nationalized Banks till they attain the age of majority. 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 2 to 4/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.

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

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
Subordinate Judge, Cheyyar.

2. The Section Officer
V.R.Section, High Court of Madras.

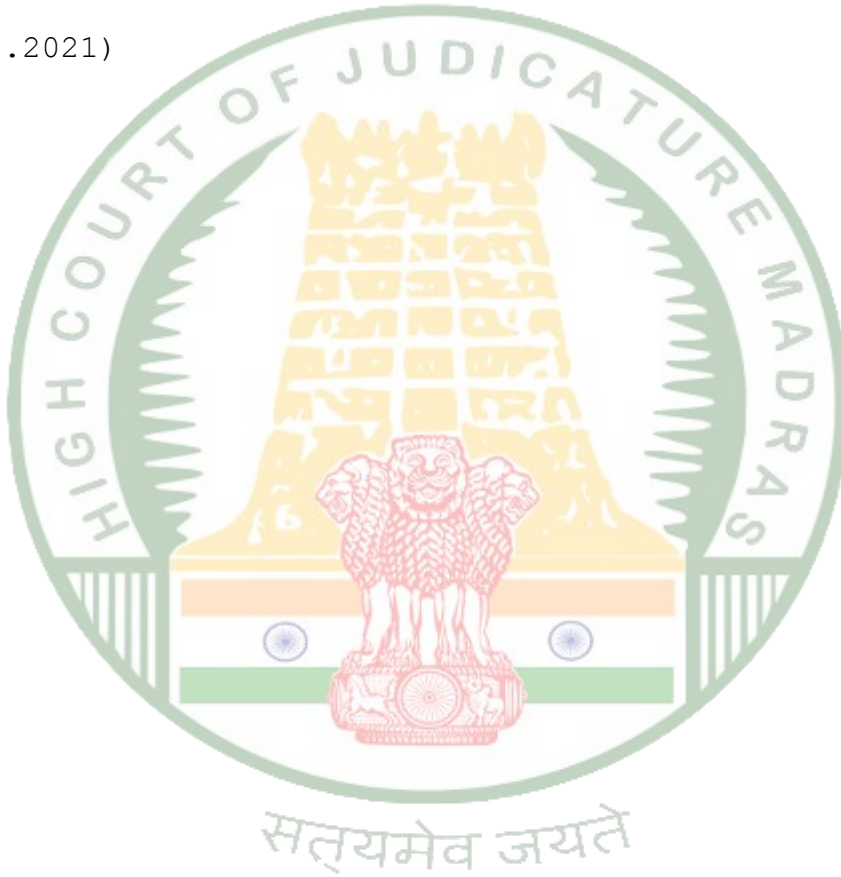
Copy to:

Mr.C.S.K.Sathish, Advocate
(Transport Corporation)

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