



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.10.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.902 of 2015

1.Muthumayakkal

2.Chandra

... Appellants/Petitioners

Vs.

Tamil Nadu State Transport Corporation

(Madurai Divn.I) Ltd,

rep.by its Managing Director,

Bye-pass Road, Madurai.

... Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the order and decree passed in MCOP.No.1696 of 2008, dated 22.11.2012 by the learned District and Sessions Judge (Communal Clashes cases Court), Madurai.

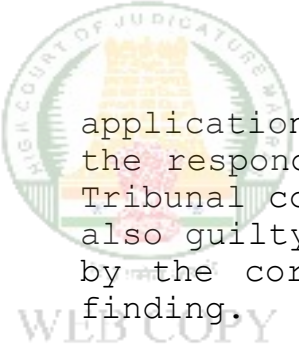
For Appellant : Mr.A.Theethar

For Respondent : Mr.M.Kayalarasan

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the claimants. One Ravichandran died in an accident. The bus belonging to the respondent corporation was admittedly involved in the accident. Crime No.439/2007 was registered on the file of the Chekkanoorani Police Station against the bus driver under section 304(A) of Indian Penal Code. The claimants filed the said MCOP under Section 163(A) of Motor Vehicles Act, 1988. Therefore they were not obliged to establish negligence on the part of the offending vehicle. After taking the monthly income of the deceased at Rs.2,250/-, the multiplier of 11 was adopted. The loss of income was quantified at Rs.2,97,000/-. However, the Tribunal came to the conclusion that the deceased was also guilty of contributory negligence which led to the accident. Therefore, the loss of income was slashed by 50% and arrived at Rs.1,48,500/-. A sum of Rs.1,78,500/- was finally awarded to be paid to the claimants. Aggrieved by the same, this Civil Miscellaneous Appeal has been filed.

2.The learned counsel for the claimants contended that the claimants adduced oral as well as documentary evidence. It was an



application filed under Section 163(A) of the Act. On the side of the respondent corporation no evidence was let in. Therefore, the Tribunal could not have come to the conclusion that the deceased was also guilty of contributory negligence. Without any evidence adduced by the corporation, the Tribunal could not have come to such a finding.

3. Therefore, I find force in the said submission of the learned counsel for the appellants. In other aspects, the damages awarded by the Tribunal are confirmed. The compensation payable to the appellants would now be Rs.1,78,500+1,48,500/- = Rs.3,27,000/-. In all other respects, the award passed by the Tribunal is confirmed. This appeal is allowed. No costs.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

The District and Sessions Judge
(Communal Clashes cases Court),
Madurai.

Copy To:-

The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

SKM/ARUL
TE/JC/SAR-I : 13/11/2017 : 2P/3C

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