



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2017

Coram:

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHABANU

C.M.A(MD)No.139 of 2011andM.P(MD).No. 1 of 2011

The Branch Manager,
The Oriental Insurance Co. Ltd.,
Siva Complex, 2nd Floor,
22/C, Saradha College Main road,
Salem - 636 016.

... Appellant/2nd Respondent

Vs.

1.G.Baby
2.B.Irin Jeba Joselin
3.B.Justin Jeba Raj
4.B.Justin Jebakumar
5.Justin Jeba Allibin
6.B.Irin Jiji
7.B.Jebalal

...1 to 7th Respondents/1 to 7th Petitioners

8.K.P.Natarajan

...8th Respondent/1st Respondent

9.The Managing Director,
Tamil Nadu Transport Corporation,
Madurai Division III, Ranithottam,
Nagercoil.

... 9th Respondent/3rd Respondent

Prayer:Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the award made in M.C.O.P.No.812 of 2009, dated 02.09.2010 on the file of the Motor Accidents Claims Tribunal cum Additional District Judge, (FTC-II), Tirunelveli.

For Appellant : Mr.K.Bhaskaran

For Respondents : No appearance

J U D G M E N T

It is a tragic accident took place on 05.02.2007, at about 8.20 a.m., at Nanguneri Vagaikulam, opposite to Pannirupudu Iyyan College. It is a case of direct head on collision between the bus belongs to Transport Corporation and the insured Omni-bus with the appellant/Insurance Company.

<https://hcservices.ecourts.gov.in/hcservices/>

2. In the tragic accident, nine persons died on the spot and fourteen persons grievously injured. Batch of claim petitions



were filed by the respective claimants and the heirs of the deceased.

3. The learned counsel for the appellant fairly submits that some of the cases were settled before the Lok Adalat, before the Court below and the compensation amounts were settled to those claimants.

4. The learned counsel for the appellant/Insurance Company contented that the present appeal has been preferred mainly on the ground of contributory negligence on the part of the Driver, who was driving the Transport Corporation bus and therefore, the Tribunal ought to have fixed contributory negligence on the part of the driver of the Transport Corporation bus and the liability fixed on the appellant/Insurance Company, is to be reduced.

5. Such contention, at this point of time, cannot be considered in view of the fact that some of the cases were settled before the Lok Adalat, before the Court below and the compensation amounts were settled to those claimants and therefore, equal and just compensation is to be maintained in respect of other claimants also.

6. Under these circumstances, this Court is not inclined to consider the ground raised in the present appeal and accordingly, the same is rejected.

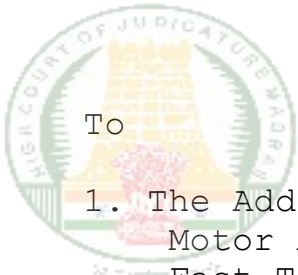
7. Accordingly, this Civil Miscellaneous Appeal is dismissed and the award made in M.C.O.P.No.812 of 2009, dated 02.09.2010, on the file of the learned Additional District Judge, Motor Accident Claims Tribunal, Fast Track Court No.2, Tirunelveli, is confirmed.

8. It is represented by the learned counsel for the appellant that 50% of the award amount had already been deposited and therefore, the appellant/Insurance Company, is directed to deposit the balance award amount with accrued interests and costs, within a period of four weeks from the date of receipt of a copy of this order and thereafter, the respondents/claimants are permitted to withdraw their share as per the ratio of apportionment made by the Tribunal from the award amount with proportionate interest and costs, through RTGS, by filing necessary application before the Tribunal concerned. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/



To

1. The Additional District Judge,
Motor Accidents Claims Tribunal,
Fast Track Court No.II, Tirunelveli.

2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr.K.Bhaskaran, Advocate, SR.No. 76731

+1CC to Mr.P.Prabhakaran, Advocate, SR.No. 76713

C.M.A (MD) No.139 of 2011
05.09.2017

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