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C.M.A(MD)No.717 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 26.07.2022

Pronounced on : 05.08.2022

CORAM

THE HONOURABLE MRS.JUSTICE **R.THARANI**

C.M.A(MD)No.717 of 2011

The Managing Director,
Tamilnadu State Transport Corporation,
Kumbakonam Division, Karaikudi Region,
Karaikudi.

.. Appellant

Vs.

1.Jesuraj

2.Mahesh

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree passed in M.C.O.P.No.935 of 2006, dated 26.06.2008 on the file of the Motor Accident Claims Tribunal/ III Additional Subordinate Court, Trichy.

For Appellant : Mr.M.Prakash

For Respondents : Mr.Krishnamoorthy



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JUDGMENT

This Civil Miscellaneous Appeal has been filed against the order in M.C.O.P.No.935 of 2006, dated 26.06.2008 on the file of the Motor Accident Claims Tribunal/ III Additional Subordinate Court, Trichy. The appellant herein is the respondent, the respondents herein are the claimants in the original claim petition.

2.Brief substance of the claim petition is as follows:

On 25.11.2005, at about 1.00 p.m., the petitioners and the others were travelling as passengers in a bus bearing registration number TN 63 N 0772 from Trichy to Rameswaram. When the bus was reaching Kottaikarai river bridge, there was heavy flood in the river and in respect of the caution given by the R.S.Mangalam Inspector, to stop the bus and not to proceed further, the driver of the respondent bus drove the vehicle in a rash and negligent manner. While trying to cross the bridge, the bus fell down into the river and got immersed. Some of the passengers died on the spot and some of the passengers got severe injuries. One Thavamani - the deceased who is the first petitioner's wife and the second petitioner's mother, died on the spot. The



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petitioners, being the husband and son of the deceased, claim Rs.3,00,000/- as compensation.

3.The brief substance of the counter filed by the respondent is as follows:

The manner of the accident as narrated in the petition is wrong. On 25.11.2005, the driver of the bus drove the vehicle in a careful and cautious manner. When the respondent bus was proceeding near Kottakarai river bridge, there was flood over the bridge. Unexpectedly, the bus capsized due to the flood and the bus was dragged by the flood water. The police failed to stop the bus from nearing the bridge. There was no heavy flood while the driver attempted to enter the bridge. Only due to the sudden raise in the flood, the accident has occurred. The interest claimed is excessive.

4.This petition in M.C.O.P.No.935 of 2006 and the connected petitions in M.C.O.P.No.923 to 948 and 950 of 2006, were taken up by the Tribunal for joint trial and a common judgment was passed by the Tribunal. In the joint trial, 20 witnesses were examined and 28 documents were marked on the side of the petitioner. One witness was examined and no document was marked on



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the side of the respondent. The Tribunal has awarded Rs.98,000/- as compensation for the petitioners in M.C.O.P.No.935 of 2006. Against the award, the appellant has come forward with this appeal.

5.On the side of the appellant, it is stated that against the award, in M.C.O.P.No.923 to 948 and 950 of 2006, the appellant preferred appeals in C.M.A(MD)Nos.711 to 721 of 2011, except this case, all other cases were settled before the Lok Adalat. On the side of the appellant, it is admitted that the entire amount was deposited and the same was withdrawn by the claimants.

6.From the submissions made by the learned counsel for the appellant, it is seen that the connected cases were settled before the Lok Adalat dated 03.03.2012. Hence it is decided that there is no reason sufficient enough to interfere with the award passed by the Tribunal.

7.Hence, this appeal is dismissed. No costs.

05.08.2022

Index: Yes / No
Internet : Yes / No

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To

- 1.The Motor Accident Claims Tribunal/ III Additional Subordinate Court,
Trichy.
- 2.The Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court, Madurai.



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**Pre - Delivery Judgment made in
C.M.A(MD)No.717 of 2011**

05.08.2022