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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8084 OF 2004

NORTH EASTERN K.R.T.C. ... APPELLANT

VS.

SHIVLEELA & ORS. ... RESPONDENT(S)

O R D E R

Appellant assails the Order dated 17.07.2003 passed by the High Court of Karnataka in M.F.A. No. 4396 of 1997 (MVC) whereby it has partly allowed the appeal and accepted the claim of the claimant to the extent of Rs. 1,55,000.00 along with interest.

Short facts giving rise to the present appeal are as follows.

That the deceased was travelling at the roof of the bus belonging to the appellant Corporation. He was hit by the branches of a road-side tree and ultimately succumbed to the injury. The claimants filed an application for compensation which was rejected by the Motor Accident Claims Tribunal. Aggrieved by the same, the claimants preferred an appeal and the High Court, as stated earlier, has partly allowed the appeal and granted compensation to the tune of Rs. 1,50,000.00 along with interest thereon. While doing so, the High Court found contributory negligence on the part of the driver and the conductor of the bus as also the deceased. The High Court, in this connection, observed as follows:

"In the totality of all these circumstances, therefore, we are inclined to hold that the accident resulting in the death of deceased Sri Shivaraj Mathpathy was because of the contributory negligence of the driver and conductor of the KSRTC bus on the one hand and the deceased on the other. The percentage of negligence contributed by them in the ratio of 50:50."

Ms. Amrita Sharma, learned counsel appearing on behalf of the appellant, vehemently submits that the finding recorded by the High Court in regard to the contributory negligence of the driver and conductor of the bus is erroneous.

Ms. Sangeeta Kumar, learned counsel representing the respondents, however, contends that on the basis of the materials on record, the High Court was right in recording the aforesaid finding.

We have bestowed our consideration to the rival submissions and we do not find any merit in the submissions of Ms. Amrita Sharma.

The High Court has referred to the materials on record and has recorded the finding on the issue of contributory negligence. As the finding recorded by the High Court is on appreciation of evidence, which cannot be termed as perverse, hence, in our opinion, the same does not call for our interference.

We direct the appellant to pay to the respondents the

compensation as awarded by the High Court within eight weeks from today.

In the result, we do not find any merit in the appeal and it is dismissed accordingly with the direction aforesaid.

No costs.

.....J.
(Chandramauli Kr. Prasad)

.....J.
(V. Gopala Gowda)

New Delhi; the
May 10, 2013

ITEM NO.104

COURT NO.11

SECTION IVA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 8084 OF 2004

NORTH EASTERN K.R.T.C.

Appellant (s)

VERSUS

SHIVLEELA & ORS.

Respondent(s)

(With appln(s) for ad-interim ex-parte stay and office report)

Date: 10/05/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD
HON'BLE MR. JUSTICE V. GOPALA GOWDA

For Appellant(s)

Ms. Amrita Sharma, Adv.
Mr. Darpan K.M., Adv.
Ms. Anitha Shenoy, Adv.

For Respondent(s)

Ms. Sangeeta Kumar ,Adv

UPON hearing counsel the Court made the following
O R D E R

We direct the appellant to pay to the respondents the compensation as awarded by the High Court within eight weeks from today.

The appeal is dismissed in terms of the signed order.

| (S.K. Rakheja)
| Court Master

| |(Indu Satija)
| | Court Master

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(Signed order is placed on the file)