

C.M.A.No.1283 of 2015

and

M.P.No.1 of 2015

S.MANIKUMAR, J.

and

M.VENUGOPAL, J.,

(Order of the Court was delivered by S.MANIKUMAR, J.,)

On 06.08.2015, we passed the following order :-

“In this appeal, the transport corporation has questioned the finding regarding negligence and the quantum of compensation awarded to the legal representatives of the deceased.

2. *Death has occurred in the year 2008. Claim in MCOP.No.4171 of 2008 on the file of MACT (Judge, Small Causes), Chennai, has culminated into a common award on 28.06.2013. But, for two years, no deposit has been made.*

3. *On this day, when the matter is tagged along with CMA Nos.3618 to 3620 of 2013 filed by the legal representative of the deceased and the injured, Mr.K.S.Suresh, learned counsel for the appellant Transport Corporation submitted that the entire award amount with proportionate accrued interest and costs, awarded to the legal representatives of the deceased*

would be deposited on or before 12.08.2015. ”

2. Statutory deposit of Rs.25,000/- has been made on 23.06.2014. Pursuant to the directions dated 06.08.2015 and without prejudice to their rights, the State Express Transport Corporation Ltd., Chennai/appellant herein, has issued two cheques, in favour of the Registrar, Court of Small Causes, Chennai, bearing No.918855 dated 11.08.2015 for Rs.4,00,000/- and a further cheque bearing No.918856 dated 17.08.2015 for Rs.4,27,589/- drawn on Indian Bank, towards the compensation amount passed by the Motor Accident Claims Tribunal, Chennai, in MCOP.No.4171 of 2008. The appellant Corporation has requested the Registrar, Court of Small Causes, Chennai, not to permit the respondents/claimants to withdraw the amount from the Court and that they have also requested the Execution Petition to be closed immediately. The Transport Corporation has also stated as follows:-

“We may deposit under protest with specific request not to allow the petitioner to withdraw the amount till the disposal of the appeal.”

3. Considering the inordinate delay in depositing the amount

and when we passed an order dated 06.08.2015 directing the appellant to deposit the entire award amount with proportionate accrued interest and costs, but the Transport Corporation, while depositing the amount has stated that it is under protest. Though Mr.K.S.Suresh, learned counsel for the Corporation submitted that it was inadvertently made, and sought for an apology on behalf of the Corporation, we do not appreciate the conduct of the appellant Transport Corporation in using the language that "Deposit is under protest". Courts direction have to be implemented implicitly, without any comment over the same. If the Corporation is not agreeable to the direction issued, the only course open to them is to file an appeal.

4. Even as per the submission of Mr.K.S.Suresh, learned counsel for the appellant Transport Corporation, the amount that ought to have been deposited in the Claims Tribunal, as per the decree, is Rs.18,13,374/-, whereas, the Transport Corporation has deposited only Rs.8,27,589/- on two different dates by way of cheques, as stated supra, apart from the statutory deposit of Rs.25,000/- . The direction issued on 06.08.2015 have not been complied with. However, the learned

counsel for the Transport Corporation prayed ten days time to deposit the balance amount. As observed earlier, for two years, no deposit has been made. Atleast after 06.08.2015, there is some progress. Hoping that the Transport Corporation would honour the statement of the learned counsel for the Corporation, we are granting further time of ten days from today.

5. Legal representatives of the deceased have filed Appeal Nos.3618 to 3620 of 2013 for enhancement of compensation on the grounds *inter alia* that the Claims Tribunal ought to have applied 17 multiplier, for the purpose of computing the loss of contribution to the family, taking into account the age of the deceased, instead of the age of the claimant/mother. During the course of hearing, reliance was also made on the recent decision of the Hon'ble Supreme Court reported in **2015 (1) TN MAC 814 (SC) (Munna Lal Jain and another ..vs.. Vipin Kumar Sharma and others)**. Per contra, Mr.K.S.Suresh, learned counsel for the Transport Corporation submitted that the Hon'ble Apex Court has also rendered a judgment in **2015 ACJ 594 (Kanh Singh and another .vs. Tukaram and others)** wherein, it is stated that the age of the claimant

should be taken into consideration, while determining the multiplier, to be applied, for arriving at the loss of contribution to the family. Though at this juncture, we are not inclined to delve into the above aspect, considering the plight of the legal representatives/claimants, ordeal or sufferings, for a period of time, since the loss of their breadwinner, we deem it fit to permit the parents/claimants to withdraw a sum of Rs.8,27,589/- (Rupees eight lakhs twenty seven thousand five hundred and eighty nine only) along with the statutory deposit of Rs.25,000/- (Rupees twenty five thousand only) lying in the credit of MCOP.No.4171 of 2008, on the file of the Motor Accident Claims Tribunal, (Chief Judge, Court of Small Causes) Chennai, by making necessary applications. We make it clear that no further indulgence will be given in the matter of balance deposit, as directed supra.

6. For reporting compliance, post on 24.08.2015.

Mra

13.08.2015

Note:

Registry is directed to issue order copy on 14.08.2015

S.MANIKUMAR, J.,

and

M.VENUGOPAL, J.,

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