

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**SUIT NO.2882 OF 2005
WITH
CHAMBER SUMMONS NO.249 OF 2016
IN
SUIT N O.2882 OF 2005**

Mrs. Padmavarthy PotharajuPlaintiff

V/s.

Jaising Maritime Ltd. & Anr.Defendants

Mr. Devashish Jagirdar i/b. Jayakar & Partners for the plaintiff.
None for the defendants.

**CORAM : K.R.SHRIRAM,J
DATE : 29th SEPTEMBER, 2016**

P.C.:-

1 The plaintiff is the widow of one Rao Potharaju, deceased and is mother of Mr. Karthik Potharaju and Ms. Anila Potharaju, the son and daughter of the deceased – Rao Potharaju.

2 The plaintiff's deceased husband was serving as a Chief Officer on board the vessel m.v. Jaising Trinity till 13th August, 1998. On 13th August, 1998 the plaintiff's husband was discovered floating on his back near the right side of the said vessel when the vessel was docked at the Great Lakes Carbon facility in Port Arthur for loading Petroleum coke and/or its by product, and was declared dead as of the

time found floating. The said vessel - m.v. Jaising Trinity at the time of the death of the plaintiff's husband, it is alleged, was owned and/or operated by the defendants.

3 The plaintiff filed a suit in United States District Court, Eastern District of Texas, Beaumont Division (US Court) bearing case no.1:OOCV-292 Admiralty 9 (h) against the defendants. The US Court passed a final judgment (a decree) dated 2nd August, 2002. In the said final judgment the court was pleased to award damages in favour of the plaintiff against the defendants jointly or severally as under:-

“1 – Past and future wage loss and loss of household services in the amount of USD 420,400.00;

2 – Loss of household service, love, affection, companionship and protection in the amount of USD 450,000.00;

3- Pre-judgment interest at 6% p.a. since April 28, 2000 in the amount of USD 115,870.20;

4 – Post-judgment interest at the legal rate; and

5 – Plaintiff's taxable costs of court to be assessed against the defendants.

4 The plaintiff has filed this suit for a declaration that the plaintiff is entitled to execute the final judgment and for a decree for the amount as decreed in the final judgment passed by the US Court on 2nd August, 2002 and receive the amounts decreed therein from the

defendants jointly or severally and in the alternative, the defendants be ordered and decreed to pay to the plaintiff a sum of USD 15,17,396.96 being the amount as decreed by the US Court.

5 The defendants have been served the writ of summons as could be seen from the affidavit of service filed by one S.C. Ghatge, Bailiff in the office of the Sheriff of Mumbai affirmed on 5th December, 2014.

6 Despite that no written statement has been filed by the defendants. The plaintiff has also filed two affidavits in lieu of examination in chief affirmed on 28th January, 2014 and 6th January, 2016, respectively. The plaintiff has also filed compilation of documents. The same have also been served upon the defendants.

7 The averments in the affidavit are accepted. The defendants not having controverted the allegations of fact contained in the plaint, the same are deemed to have been admitted under the provisions of Order 8 Rule 5 of the Code of Civil Procedure, 1908 as amended. The defendants being corporate entity cannot be stated to have any disability to file its defence.

8 In the circumstances, the suit stands decreed in terms of prayer clause – (c). The decree be drawn up accordingly. All interim applications also stand disposed.

(K.R.SHRIRAM,J)