

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD) No.433 of 2013
M.P.No.1 of 2013

The Managing Director,
Tamil Nadu State Transport
Corporation Limited, (Salem Division -II)
Bharathipuram, Dharmapuri – 5.

.. Petitioner

Vs.

1.Amutha
2.Thilaka
3.Sridharan

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the petition and docket order dated 14.12.2012 made in R.E.P.No.72 of 2012 made in M.C.O.P.No.8 of 2003 on the file of the Subordinate Judge, Krishnagiri.

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For Petitioner : Mr.D.Venkatachalam

For R1 : No appearance

For R2 & R3 : Not ready in notice

ORDER

This Civil Revision Petition has been filed against the petition and docket order dated 14.12.2012 made in R.E.P.No.72 of 2012 made in M.C.O.P.No.8 of 2003 on the file of the Subordinate Judge, Krishnagiri.

2. The petitioner is the respondent and respondents are the petitioners in M.C.O.P.No.8 of 2003. The respondents 1 to 3 filed the said claim petition against the petitioner on the file of the Subordinate Judge, Krishnagiri claiming for a sum of Rs.25,00,000/- for the death of husband of the first respondent and father of the respondents 2 and 3. The Tribunal, by the award dated 30.07.2004, awarded a sum of Rs.4,77,080/- as compensation together with interest at 9% per annum to the respondents 1 to 3. The petitioner filed C.M.A.No.3624 of 2004 to set aside the order and respondents 1 to 3 filed C.M.A.No.273 of 2005 for enhancement of compensation. The Division Bench of this Court, by the order dated 07.12.2004, directed the petitioner to deposit the balance award amount including interest. The petitioner complied with the said order and deposited the amount on 10.01.2005 to the credit of M.C.O.P.No.8 of 2003 on the file of Motor Accident Claims Tribunal (Additional

Special Judge, Krishnagiri). Subsequently, the Division Bench of this Court, by the judgment dated 24.04.2009, dismissed the C.M.A.No.3624 of 2004 filed by the petitioner and enhanced the compensation in C.M.A.No.273 of 2005 filed by the respondents 1 to 3 to a sum of Rs.9,51,000/- together with interest at 7.5% from the date of petition. The respondents filed E.P.No.72 of 2012. The petitioner filed memo of calculation, stating that amount due to deposit is only Rs.6,95,043/- where as the respondents have filed the memo stating that amount is Rs.12,81,043/-. The learned Judge adjourned the E.P for payment of balance of Rs.4,24,254/- and posted the E.P on 03.01.2012.

3. Against the said petition and docket order dated 14.12.2012 made in R.E.P.No.72 of 2012 in M.C.O.P.No.8 of 2003, the petitioner filed the present Civil Revision Petition.

4. Heard the learned counsel appearing for the petitioner. Though notice is served on the first respondent and her name is printed in the cause list, there is no representation either in person or through counsel. The respondents 2 and 3 are the minors represented by their mother, first respondent.

5. The learned counsel appearing for the petitioner contended that by

the judgment dated 24.04.2009, the Division Bench of this Court enhanced the amount to Rs.9,51,000/- but, reduced the rate of interest from 9% to 7.5%. The petitioner is liable to pay interest only at 7.5% per annum for the total sum of Rs.9,51,000/- from the date of claim petition. The learned counsel appearing for the petitioner also submitted that pending C.M.A, the petitioner deposited the original award amount of Rs.4,77,080/- together with interest at 9% on 10.01.2005. The excess interest amount paid at the rate of 9% on Rs.4,77,080/- has to be given credit to while calculating the amount due now. The calculation of the respondents is not correct. The said contention has considerable force.

6. From the reading of the order of this Court dated 24.04.2009 made in C.M.A.Nos.3624 of 2004 and 273 of 2005, it is clear that this Court awarded a sum of Rs.9,51,000/- and interest at the rate of 7.5% on the total amount of Rs.9,51,000/-. While enhancing the compensation amount, the Division Bench has reduced the rate of interest from 9% to 7.5%. In view of the judgment of the Division Bench of this Court referred to, both the petitioner and respondents are directed to file memo of calculation before the Executing Court, calculating the amount on Rs.9,51,000/- at the rate of 7.5% from the date of claim petition. While doing so, the amount already deposited by the petitioner has to be given credit to and interest has to be calculated on

the balance amount. On filing such a memo of calculation, the Executing Court is directed to consider both the memo filed by the respondents and petitioner and pass orders on merits and in accordance with law.

7. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

05.10.2017

Index : Yes/No

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To

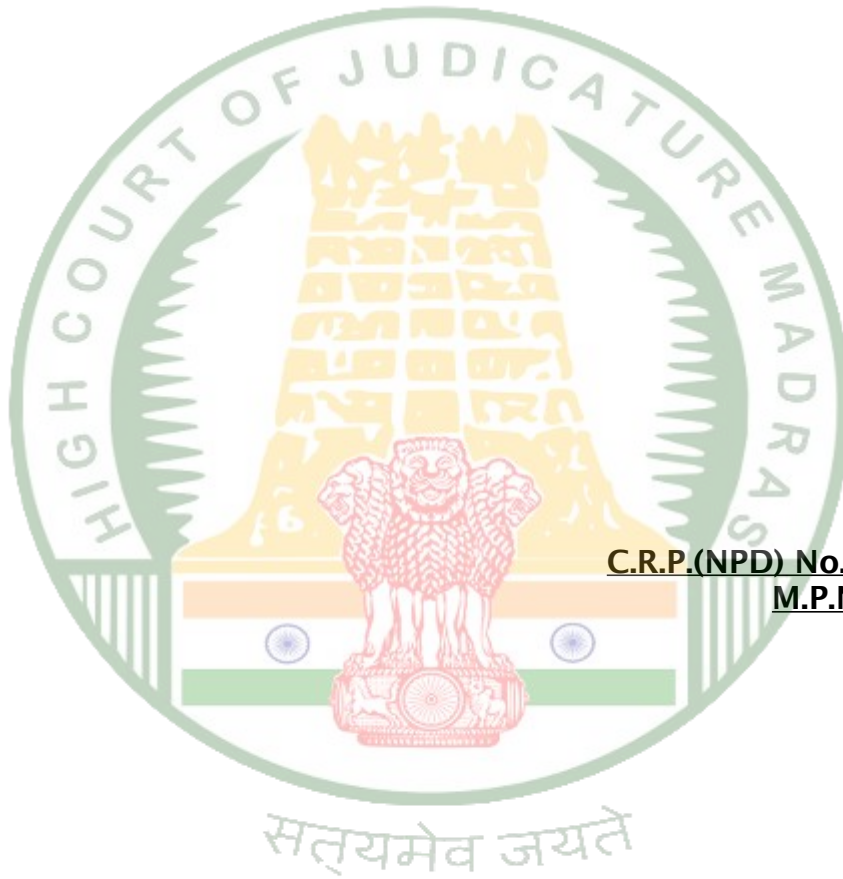
The Subordinate Judge,
Krishnagiri.



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V.M.VELUMANI, J.

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