

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.810 OF 2018
(The Maharashtra State Road Transport Corporation, Beed Vs.
Narmadabai Kacharulal Kabra and others)

Mr.S.R.Bagal, Advocate for the petitioner.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 22/01/2018

PER COURT :

1. The petitioner MSRTC is aggrieved by the order dated 26/10/2017 by which the application Exh.26 filed by the petitioner seeking a review of the earlier direction with regard to the calculation of the amounts, is partly allowed and the amount is reduced by 83,000/-.

2. Learned Advocate for the petitioner has strenuously criticized the impugned order. He submits that the law, well settled by the Hon'ble Apex Court (3 judges bench) in V. Kala Bharathi Vs. Oriental Ins. Co. Ltd., Br.Chitoor [AIR 2014 SC 1563], has not been properly followed.

3. I have considered the submissions of the learned Advocate and the grounds set out in the memo of the petition.

4. The Executing Court, while considering the request of the petitioner below Exh.26, has relied upon a similar view taken by the Hon'ble Apex Court in Bharat Heavy Electricals Ltd. Vs. R.S.Avtar Singh & Co. [2012 STPL (Web) 580] as like the view taken in V.Kala Bharathi (supra) that the money deposited, if is less than the decretal amount, it should be appropriated first as against the interest and the costs so that the interest ceases to run from the date of the payment. It appears that the Executing Court has accordingly followed the Law and adjusted the amounts as were paid by the MSRTC as against the interest and the costs and has then reduced the recoverable amount to Rs.4,12,805/- . It is in this backdrop that the warrant for recovery of the amount under Order 21 Rule 43 of the CPC has been ordered.

5. It cannot be ignored that the accident that took the life of the bread earner of the respondents, occurred in 1986 and it is for the past 32 years that the survivors are litigating for the compensation amount.

6. Considering the above, this petition, being devoid of merit, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)