



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.V. MURALIDARAN

C.R.P. (PD) (MD) No. 1029 of 2018

and

C.M.P. (MD) No. 4421 of 2018

WEB COPY

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Madurai Division II,
Tirunelveli.

... Petitioner

Vs.

1. Lakshmi
Irulayee (died)
2. H. Manimegalai
3. H. Puratchi
4. H. Venmani

... Respondents

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the docket order made in E.P.No.35 of 2014, dated 16.08.2017 on the file of Chief Judicial Magistrate (Motor Accident Claims Tribunal), Madurai.

For Petitioner : Mr. A. Jeyaram
For Respondents : Mr. N. V. Suresh Kumar

O R D E R

The Civil Revision Petition is filed against the docket order passed by the learned Chief Judicial Magistrate, Motor Accident Claims Tribunal, Madurai in E.P.No.35 of 2014, dated 16.08.2017.

2. For the death of one Hariram, the respondents/claimants filed a petition in M.C.O.P.No.1478 of 2005 before the Motor Accident Claims Tribunal, Madurai, claiming compensation. The Tribunal has passed an order on 04.12.2008, directing the petitioner/Transport Corporation to pay a sum of Rs.6,38,000/- as compensation. Against which, the petitioner/State Transport Corporation has filed an appeal in C.M.A.(MD).No.518 of 2011 before this Court. The appeal was referred to the Lok Adalat and the Lok Adalat has passed an award on 23.11.2013, directing the petitioner/State Transport Corporation to deposit a sum of Rs.9,25,000/- in full quit. As per the award of the Lok Adalat, the respondents/claimants filed an Execution Petition in E.P.No.35 of 2014 before the Tribunal. The learned Chief Judicial Magistrate, Motor Accident Claims Tribunal, Madurai has allowed the E.P.No.35 of 2014, on 16.08.2017, stating that no calculation



memo has been filed, even after giving sufficient opportunity to the respondent/State Transport Corporation and therefore, it is treated as there is no objection from the respondent/State Transport Corporation

3. Heard the learned counsel on either side and perused the materials placed before this Court.

4. On a fair reading of the order dated 16.08.2017 in E.P.No.35 of 2014, makes it clear that though sufficient opportunity has been given to the petitioner/State Transport Corporation, no calculation memo has been filed. Admittedly, it is a case in respect of the claim of compensation for the deceased Hariram. Therefore, the Executing Court ought to have given an opportunity to the State Transport Corporation before passing orders. Therefore, this Court is inclined to pass the following order:

The Civil Revision Petition is allowed and the order passed by the learned Chief Judicial Magistrate, Motor Accident Claims Tribunal, Madurai in E.P.No.35 of 2014, dated 16.08.2017 is set aside and the matter is remanded back to the Executing Court and the Executing Court is directed to consider the same and pass appropriate orders, by giving notice to both the parties, within a period of two months from the date of receipt of a copy of this order.

5. It is made clear that the petitioner/State Transport Corporation, who is the respondent in E.P.No.35 of 2014 should appear before the Executing Court without fail and produce appropriate documents by way of counter or calculation memo.

No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar(CS-III)

To
The Chief Judicial Magistrate,
(Motor Accident Claims Tribunal),
Madurai.

+1cc to Mr.N.V.Suresh Kumar, Advocate SR.No.75124

Akv

MK/KAK/SAR 3/28.08.2018/2P/3C