

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P.No.3593 of 2019

Revathi ... Petitioner/Petitioner/Petitioner

-Vs-

- 1.The Managing Director
Tamil Nadu State Transport Corporation (PATC)
Rangapuram, Vellore-9.
- 2.The Managing Director
Tamil Nadu State Transport Corporation (MGRTC)
Kanchipuram. ... Respondents/Respondents/Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India seeking direction to the Sub Court, Kanchipuram to number Cheque Application in unnumbered I.A.No.____ of 2017 in MCOP No.565 of 1999, which was returned on 26.04.2018.

For Petitioner : Mr.V.Parivallal

O R D E R

This revision has been filed with a prayer seeking direction to the Sub Court, Kanchipuram to number Cheque Application in unnumbered I.A.No.____ of 2017 in MCOP No.565 of 1999, which was returned on 26.04.2018.

2. Heard the learned counsel appearing for the petitioner and perused the materials placed before this Court.

3. It seems that there has been an award by the Motor Accidents Claims Tribunal in M.C.O.P. No.565 of 1999 on the file of the Sub Court, Kanchipuram, as against which the Transport Corporation ie., the respondents herein, preferred C.M.A.No.929 of 2004. In the said C.M.A., this Court has passed the following order on 27.07.2009.

"1. That the Respondents 1 to 4 herein / claimants shall be entitled to a sum of Rs.6,55,000/- (Rupees Six Lakhs Fifty Five Thousand only) as total compensation together with interest at the rate of 9% per annum.

2. That the appellant and the 5th respondent

herein/Transport Corporation do pay 50% each in the compensation amount fixed by this Court;

3. That the 1st respondent herein / 1st claimant shall be entitled to a sum of Rs.3,55,000/- (Rupees Three Lakhs Fifty Five Thousand only).

4. That the Respondents 2 to 4 herein / claimants 2 to 4 shall be entitled to a sum of Rs.1,00,000/- (Rupees One Lakh only).

5. That the shares awarded to the Respondents 2 to 4 herein / claimants 2 to 4 shall be deposited in a Nationalised Bank till they attain majority and the 1st respondent herein / 1st claimant shall be permitted to withdraw the interest for every six months;

6. That the appellant herein / Transport Corporation shall be permitted to withdraw the excess amount from the deposit; and

7. That, there be no costs in the appeal."

4. According to the said order, out of the total award amount of Rs.6,55,000/- , the first respondent in the said C.M.A., was entitled for a sum of Rs.3,55,000/- and the remaining three respondents ie., respondents 2 to 4 in the said C.M.A., were entitled for Rs.1,00,000/- each. However, at the time of the said order was passed ie., on 27.07.2009, those respondents 2 to 4 were minors and the present petitioner is the fourth respondent in the said C.M.A. Therefore, the learned Judge, in the said order, directed to deposit the share of the minors ie., each Rs.1,00,000/- totalling to Rs.3,00,000/- in a Nationalised Bank and they shall be entitled to withdraw the said principal of their share with accrued interest only on attaining majority.

5. Accordingly, it is the case of the revision petitioner that, since the petitioner has become major she had filed the present application in 2017 for payment out by way of withdrawal of Rs.1,00,000/- along with accrued interest, which according to the petitioner, comes to about Rs.1,46,569/-. However, the said application has been returned by the Court below with the following endorsement.

"MCOP No.565/1999

RETURNED

1.On verification, this cheque application the claim requested for Rs.1,46,569/-. Further, on perusal of earlier withdrawal petitions and Hon'ble High Court order in CMA No.929/2004 and CMP No.5581/2004 dated 27.07.2009. The Respondent Transport Corporation has been entitled their excess deposited amount to receive the same.

2. Hence, the Respondent Transport Corporation is

entitled for Rs.92,241/- and the remaining amount of Rs.54,328/- may is entitled for the 4th petitioner.

3. Hence, the counsel for the petitioner is directed to file a fresh application with a request to claim Rs.54,328/- only."

6. Aggrieved over the same, the present revision petition has been filed by the petitioner.

7. From the aforesaid proceedings, it becomes clear that the revision petitioner is entitled to Rs.1,00,000/- with accrued interest. The said award as passed by this Court in the C.M.A.No.929 of 2004 was made in the year 2009 and therefore, if at all the award amount has been deposited, which is the principal in the year 2009, certainly accrued interest thereon would be there and therefore, the revision petitioner, in order withdraw the said principal amount as well as the accrued interest, calculated the same to the extent of Rs.1,46,569/- and filed the said I.A.

8. In this regard, if at all the trial Court wants to pass order in the said I.A., permitting the revision petitioner to withdraw only Rs.1,00,000/- with accrued interest and not the exact amount of Rs.1,46,569/-, the said exercise could be made by the trial Court only after numbering the I.A., and ordering notice, if need be, to the contesting respondents ie., the Transport Corporation and before which the trial Court cannot come to the conclusion that the transport corporation is entitled to Rs.92,241/- and the petitioner is entitled to Rs.54,328/-.

9. The said reasoning given by the trial Court for returning the I.A., case papers is palpably wrong in view of the clear finding given by this Court in C.M.A.No.929 of 2004, where it has been clearly mentioned that the minors are entitled to Rs.1,00,000/- each.

10. Assuming that, if the Court below has got any doubt over the entitlement of of the minors at Rs.1,00,000/- each, including the present revision petitioner, or they all jointly would be entitled to only Rs.1,00,000/-, by giving a literary meaning to the order especially paragraph No.4 of the order dated 27.07.2009, that can only be decided after hearing the parties ie., the revision petitioner as well as the Transport Corporation and even in that eventuality, it will become incumbent on the part of the trial Court to number the I.A., and issue notice to the Transport Corporation, without which the matter cannot be decided.

11. Therefore, this Court is of the view that the trial Court can be directed to number the I.A., and to proceed with

the matter in accordance with law. Hence, this Civil Revision Petition is disposed of with a direction to the Sub Court, Kanchipuram to number the I.A., filed by the revision petitioner herein in M.C.O.P.No.565 of 1999, which was returned on 26.04.2018, if it is otherwise in order, enabling the revision petitioner to re-present the said I.A., immediately, within one week from the date of receipt of a copy of this order. With these directions, the Civil Revision Petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KST

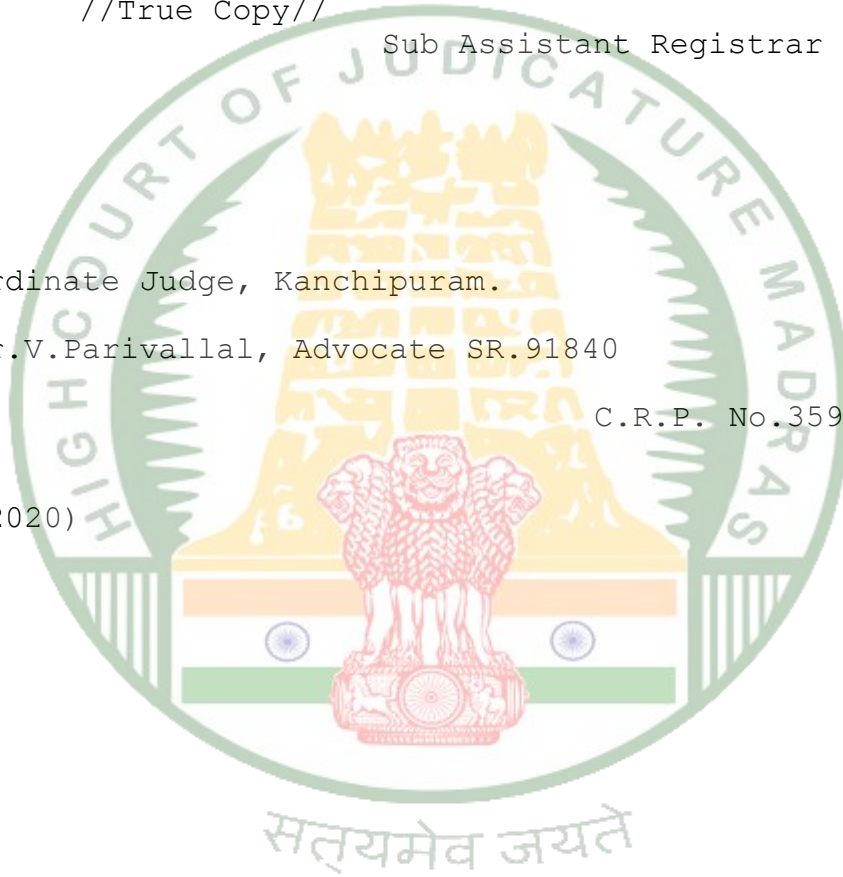
To

The Subordinate Judge, Kanchipuram.

+2cc to Mr.V.Parivallal, Advocate SR.91840

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SSD(CO)
CB(21/02/2020)



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