BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

CRP(MD)No.1658 of 2019

The Managing Director,
The Tamil Nadu State
Transport Corporation,
Nagal Nagar,
Madurai Division – 4,
Dindigul District. … Revision Petitioner

versus

1. Gurusamy
2. Poopathi … Respondents

Revision Petition filed under Section 115 of C.P.C. against the order dated 04.09.2019 passed in E.P.No.126 of 2015 in M.C.O.P.No.35 of 2012 on the file of the Sub Court, Uthamapalayam.

For Revision Petitioner : Mr.K.Sudalaiyandi

ORDER

The revision petitioner is the 1st respondent in M.C.O.P.No.35 of 2012. The respondents herein filed M.C.O.P.No.35 of 2012 before the Sub Court, Uthamapalayam, claiming compensation of Rs.15,00,000/- in respect of death of their son, namely, Surulivel, due to the accident that had happened on 05.03.2007.

2. The Sub Court, Uthamapalayam, on 23.01.2013, by considering the oral and documentary evidence, awarded the compensation of Rs.8,53,000/-, which is payable by the Transport Corporation along with interest 7.5% p.a. from the date of petition till the date of deposit. Out of Rs.8,53,000/-, the respondents herein are entitled to Rs.3,00,00/- each and the wife of the victim, who was arrayed as 2nd respondent therein, is entitled to Rs.2,53,000/-. In order to execute the said decree, the respondents herein filed an Execution Petition in E.P.No.126 of 2015 before the Sub Court, Uthamapalayam, claiming the compensation of Rs.6,00,000/- and interest for the period from 03.09.2015 at Rs.1,51,107/-, totally a sum of Rs.7,51,107/-.

3. After filing the Execution Petition, the Transport Corporation has deposited the compensation amount partially along with interest on various dates. Due to non payment of the balance amount of Rs.80,346/-, the Court below, by an order dated 28.08.2019, ordered attachment of the bus belonging to the Transport Corporation, bearing Reg.No.TN57N2415. Thereafter, the Transport Corporation has filed a calculation memo stating that the Corporation has deposited a sum of Rs.57,947/- towards TDS, with the Income Tax Department in the claimants' name and has deposited the balance amount of Rs.27,656/- including the interest and also the cost for filing E.P.

4. However, the Court below has not accepted the said calculation memo and passed an order dated 04.09.2019, stating that the Transport Corporation has to pay a sum of Rs.66,906/- as per the Court Register. Hence, the Transport Corporation has filed this Revision Petition.

5. The learned counsel appearing for the revision petitioner submitted that the calculation memo filed by the revision petitioner is a correct one. The revision petitioner has deposited the entire award amount along with interest, after deducting TDS amount as per the Income Tax Rules. Therefore, there is no arrears of award amount. In order to prove the same, the revision petitioner filed a memo with regard to the payment of award amount before the Court below. But, the Court below has not accepted the said memo and directed the revision petitioner to pay the balance award amount of Rs.66,906/- as per the Court Register. According to the revision petitioner, as they have deposited the entire award amount along with interest, now, they are not liable to pay a sum of Rs.66,906/- as mentioned by the Court below.

6. The learned counsel appearing for the revision petitioner further submitted that in order to avoid confusion on payment of award amount, the revision petitioner filed a calculation memo, explaining the details of payment and interest on various dates and also the payment of TDS amount in the claimants' name. Therefore, the calculation memo cannot be said to be incorrect. If the calculation memo is not accepted, the rights of the revision petitioner will be affected severally, since the running bus was attached on 28.08.2019 and the same is still under the custody of the Court below for the past 22 days. Furthermore, the revision petitioner has also filed an application to raise the attachment. However, the Court below has not entertained the said application and refused to number the said application. Hence, the revision petitioner is before this Court.

7. In order to give clarity, it is necessary to look into the calculation memo filed by the revision petitioner before the Court below:

8. Perusal of the calculation memo filed by the revision petitioner reveals the details of payment which were made on various dates and the same are extracted hereunder:

Sl. No.	Amount	Payment Details
1.	Rs.2,86,703/-	IOB Ch.No.011098 dt.26.11.2016
2.	Rs.2,86,703/-	IOB Ch.No.032412 dt.10.01.2017
3.	Rs.2,96,703/-	IOB Ch.No.011642 dt.20.02.2017
4.	Rs.1,69,404/-	IOB Ch.No.012805 dt.06.04.2017
5.	Rs. 25,000/-	IOB Ch.No.012806 dt.06.04.2017
6.	Rs. 34,353/-	IOB Ch.No.012807 dt.06.04.2017
7.	Rs. 57,947/-	Income Tax amount remitted in the 3 claimant's name
8.	Rs. 27,656/-	CNBCh.No.316235dt.30.08.2019

From the above, it is seen that the Transport Corporation/Revision Petitioner has totally paid a sum of Rs.11,74,469/- (including interest, TDS amount and costs).

9. It is to be noted that Section 194(a) of the Income Tax Act provides for deduction of TDS on payment made regarding interest. As per the said provision, the revision petitoner has deposited a sum of Rs.57,947/- with the Income Tax Department in the claimants' name. In order to prove the same, the revision petitioner filed Form No.16A (in the name of three claimants). But, the Court below has not taken into account the payment of Rs.57,947/- towards TDS in the name of claimants.

10. However, the Court below, while calculating the payment of compensation, found that the Transport Corporation has to pay the remaining award of Rs.66,906/-. Hence, the Transport Corporation was directed to pay the same.

11. From the above, it is clear that there is a shortfall of Rs.8,959/- between the amount calculated by the Court below and the amount paid by the appellant towards TDS. To show its bonafides and also to give quietus to this issue, the revision petitioner undertakes to pay the remaining amount of Rs.8,959/- (i.e.Rs.66,906 - Rs.57,947 = Rs.8,959/-) before the Court.

12. In view of the above, the Civil Revision Petition is disposed of with the following directions:

(i) The revision petitioner is directed to deposit the remaing amount of Rs.8959/-, before the Court below, within a period of two weeks from the date of receipt of a copy of this order.

(ii) On such deposit being made, the Court below is directed to number the application filed by the Transport Corporation to raise the attachment, by taking into account the payment of TDS amount and to pass appropriate orders, on the said application.

There shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

The Sub Court,
Uthamapalayam.

+1 CC to M/s.K.SUDALAIYANDI, Advocate (SR-88094[F] dated 20/09/2019)

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20.09.2019

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