

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2020

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.S.No.184 of 2019

1. Raja Pushpam

2. John Raj

.. Plaintiffs

Versus

Owners and Parties interest in
The TUG MUTHA GEM and Barge MUTHA PEARL
presently operating in Udankudi Project,
Kallamozhi, Coastal Village, Tuticorin and is
represented herein by Her Master

.. Defendant

PRAYER: Plaint filed under Order XLII Rule 1,2 and 3 of O.S.Rules read with Order VII Rule 1 of C.P.C prays for a judgment and decree against the defendant.

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a) For a sum of US\$ 74,092.00 (US Dollars Seventy Four Thousand and Ninety Two Only) equivalent to INR 52,72,757.18 (Indian Rupees fifty two lakh seventy two thousand seven hundred and fifty seven and paise eighteen only) calculated at the rate of USD 1 = INR 71.165 or such other

higher exchange rate as may be applicant as on the date of Decree, together with further interest at 18% per annum from the date of this plaint till the date of realisation in full.

b) For arrest and sale of the defendant vessel, being Tug MUTHA GEM and Barge MUTHA PEARL, in as is where is condition, presently in Indian waters at Kallamozhi, Coastal Village, Tuticorin, Tamil Nadu, India.

c) For a direction to adjust the sale proceeds of the defendant Vessel, being the Tug MUTHA GEM and Barge MUTHA PEARL against the suit claim

d) For costs of this suit.

For Plaintiffs : Mr.M.B.Raghavan

For Defendant : Mr.Vineet Subramani-No Appearance

JUDGMENT

The plaintiffs are the parents of the deceased viz., Sam David Raja. On 30.09.2018, Sam David Raja and another Crew Member, Jenikko Sekar were employed under the Master of Barge MUTHA PEARL and died in the ship accident, which had happened during the course of the employment.

The suit has been filed for US\$ 74,092.00 (US Dollars Seventy Four Thousand and Ninety Two Only) equivalent to INR 52,72,757.18 with interest @ 18% per annum; to arrest and sale of the defendant Vessel, viz., Tug MUTHA GEM and Barge MUTHA PEARL, in as is where is condition and also to adjust the sale proceeds towards the suit claim.

2. The defendant-vessel was arrested by virtue of an interim order dated 11.03.2019 and in the course of the pendency of the suit, the defendant was directed to deposit 69,000 U.S.Dollars for release of the Vessel and as an interim measure, this Court permitted the plaintiffs to withdraw a sum of Rs.8,00,000/-. However, the said order was subsequently modified on 13.03.2019. According to the modified order, giving credit to Rs.2,50,000/- paid by the owner of the defendant's Vessel to the plaintiffs before institution of the suit, a further sum of Rs.5,00,000/- was paid to the plaintiffs and a sum of Rs.35,45,220/- was paid as security in the name of the Registrar General, High Court, Madras.

3. When the matter is taken up for arguments, after completion of pleadings and framing of issues, the learned counsels have prevailed upon

the parties to amicably settle the issue instead of undergoing the ordeal of trial. The parties have accepted the proposal and now filed a Compromise Memo dated 07.02.2020 signed by the plaintiffs and the representative of the defendant-Company. As per the compromise memo, the plaintiffs have agreed to receive a sum of Rs.12,50,000/- each towards full quit and satisfaction of the suit claim. The defendant, who had already deposited a sum of Rs.35,45,220/- which has been invested in a bank deposit, will be entitled to get refund of the remaining amount.

4. This Court perused the compromise memo. The parties are present before this Court and affirmed their consent for passing the decree in terms of the compromise memo.

5. In the result, the suit is decreed in terms of the compromise memo. Paragraphs 9 and 10 of the compromise memo shall form part of the decree. The Registrar General, High Court, Madras shall comply with the terms of the decree and disburse the money as per the decree within a period of 30 days from today. The Registry is directed to furnish the copy of the judgment and decree to Mr.M.Natarajan, the authorised

signatory of the defendant-Company on payment of necessary fee. No costs.

06.02.2020

Index : Yes/No
Internet : Yes/No

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Note: Issue order copy on 07.02.2020



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