



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2019

CORAM :

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

REV. APLC(MD)No.91 of 2019

in

C.M.A(MD)No.130 of 2011

WEB COPY

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Madurai Division, Bye-Pass Road,
Madurai.

.. Petitioner/
2nd Respondent

Vs.

1.Perumayee

2.S.Velusamy

.. Respondents 1 & 2 /
Appellants

3.C.Chinnasamy

.. Respondent No.3 /
1st Respondent

PRAYER : Review Application filed under Section 114 CPC read with Order 47 Rule 1 of the Civil Procedure Code, against the Judgment and decree, dated 16.11.2017 passed in C.M.A(MD)No.130 of 2017 on the file of this Court.

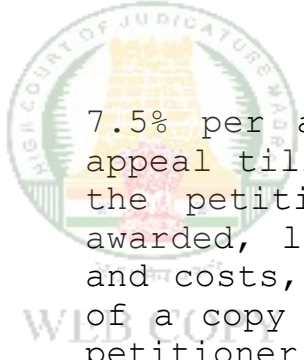
For Petitioner : Mr.M.Prakash

For Respondents : Mr.Muthugeethayan

ORDER

This review application has been filed by the revision petitioner / second respondent as against the Judgment and decree, dated 16.11.2017 passed by this Court in C.M.A(MD)No.130 of 2017.

2.The respondents 1 and 2 / claimants filed M.C.O.P.No.278 of 1984 claiming compensation of Rs.50,000/- for the death of their son Kubendran. The Tribunal, after appreciating the oral and documentary evidence produced on either side and also gone through the exhibits was pleased to award a sum of Rs.15,000/- towards compensation with 9% interest from the date of filing of the petition till the date of deposit. Against which, the respondents 1 and 2 / claimants filed C.M.A(MD)No.130 of 2011, seeking enhancement of compensation. This Court, after reappraising the evidence available on record and also gone through the exhibits, enhanced the award amount from Rs.15,000/- to Rs.5,00,000/- towards compensation with interest at the rate of



7.5% per annum from the date of filing the civil miscellaneous appeal till the date of realization. This Court also directed the petitioner / second respondent to deposit the amount now awarded, less the amount already deposited, with accrued interest and costs, within a period of four weeks from the date of receipt of a copy of the judgment. Seeking to review the said order, the petitioner / second respondent filed this review petition on the ground that though compensation was enhanced more than the claim amount, this Court ought to have fixed just and reasonable interest for the enhanced amount, since the interest portion of the award amount comes to more than Rs.11 lakhs.

3.The learned counsel appearing for the review petitioner / 2nd respondent reiterated the grounds raised in the revision petition.

4.The power of this Court in matters of review is very limited. Such power can be exercised only when there is error apparent on the face of the record or in the event an order is not reviewed, it would amount to miscarriage of justice. For the said proposition, we may usefully refer to the Judgment of a Division Bench of this Court, in **Union of India, rep by the Senior Divisional Commercial Manager, Chennai, Vs. The Registrar, Central Administrative Tribunal, Madras Bench**, reported in **CDJ 2014 MHC 241**, wherein the Division Bench has made a complete survey of several Judgments of the Supreme Court, on this question, and has ultimately, in Paragraph No.10, held as follows:-

"10. In yet another Judgment reported in **2013 (8) SCC 320, [Kamlesh Verma Vs. Mayawati and others]**, the Hon'ble Apex Court, after examining various Judgments passed earlier has held as follows"

"12. This Court has repeatedly held in various Judgments that the jurisdiction and scope of review is not that of an appeal and it can be entertained only there is an error apparent on the face of record. A mere repetition through different counsel, of old and overruled arguments, a second trip over ineffectually covered grounds or minor mistakes of inconsequential import are obviously insufficient....."

In the above Judgment, the Hon'ble Apex Court has laid down the principles as under:

"19. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order XL VII Rule 1 of CPC. In review jurisdiction, mere disagreement with the view of the Judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment in the guise that an alternative view is possible under the review jurisdiction.



Summary of the principles:

20. Thus, in view of the above, the following grounds of review are maintainable, as stipulated by the statute:

20.1 When the review will be maintainable:-

(i). Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii). Mistake or error apparent on the face of record;

(iii). Any other sufficient reason.

The words 'any other sufficient reason' has been interpreted in **Chhajju Ram Vs. Neki, AIR 1922 PC 112** and approved by this Court in **Moran Mar Basselios Catholicos Vs. Most Rev. Mar Poullose Athanasius & others [1955] 1 SCR 520**, to mean, "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in **Union of India Vs. Sandur Manganese & Iron Ores Ltd., ors., JT (2013) 8 SC 275**.

20.2. When the review will not be maintainable:-

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii). Minor mistakes of inconsequential import.

(iii). Review proceedings cannot be equated with the original hearing of the case.

(iv). Review is not maintainable, unless the material error, manifest on the face of the order, undermine its soundness or results in miscarriage of justice.

(v). A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.

(vi). The mere possibility of two views on the subject cannot be a ground for review.

(vii). The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii). The appreciation of evidence on record is fully within the domain of the appellate Court, it cannot be permitted to be advanced in the review petition.

(ix). Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived."

5. In view of the law laid down by the Division Bench of this Court in the Judgment, referred to above, it may be mentioned that the review is not an appeal in disguise and therefore, this



Court cannot consider any of the new materials, which were not placed before the Court, argued and not considered. Applying the said legal principles to the facts of the present case, if the grounds of review are analysed, this Court finds no error apparent on the face of the order sought to be reviewed. Thus, the present Review Application is liable to be dismissed. Accordingly, the Review Application is dismissed. If the petitioner is still aggrieved, it is always open to him to file an appeal against the order passed in the revision petition, if he so desires.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

smn

To

The Motor Accidents Claims Tribunal,
Sub Court, Madurai.

+1CC TO M/S.M.PRAKASH, ADVOCATE, SR.NO.68107

+1CC TO M/S.M.MUTHUGEETHAYAN, ADVOCATE, SR.NO.68160

ORDER MADE IN
REV. APLC(MD)No.91 of 2019
in
C.M.A(MD)No.130 of 2011

BUC(03/07/2019) 4P/4C