



CMA.No.5/2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

CMA.No.5/2023 & CMP.No.43/2023

The Managing Director
Tamil Nadu State Express Transport
Corporation Limited
Pallavan Salai
Chennai 600 002.

.. Appellant

Vs.

1.M.Latha
2.S.M.Pavithra [Minor]
3.S.M.Vignesh [Minor]
RR2&3 are minors rep.by their
mother and natural guardian
M.Latha

.. Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 26.06.2020 made in MCOP No.2287/2016 on the file of the Motor Accident Claims Tribunal / II Court of Small Causes, Chennai.



CMA.No.5/2023

WEB COPY

For Appellant : Mr.K.Kathiresan

JUDGMENT

[Judgment of the Court was delivered by S.S.SUNDAR, J.,]

- (1) The appellant is the Tamil Nadu State Express Transport Corporation Limited and the present appeal is preferred as against the Award of the Motor Accidents Claims Tribunal, namely, the II Court of Small Causes, Chennai, awarding a compensation of Rs.26,05,000/- to the claimants / respondents herein who are the legal heirs of the deceased.
- (2) The Tribunal has given specific findings on all the issues based on the evidence of PW.1 and PW.2 apart from the documents Exs.P1 to P10. The appellant/Transport Corporation remained exparte throughout the proceedings and therefore, no one was examined and no document was marked on behalf of the appellant.
- (3) When this was pointed out to the learned counsel for the appellant, the learned counsel prayed for withdrawal of the Civil



CMA.No.5/2023

WEB COPY

Miscellaneous Appeal with a leave to file a petition to set aside the exparte decree in MCOP.No.2287/2016. He also states that no application was filed before the Trial Court after the exparte order was pronounced. It is also stated by the learned counsel that no notice was served after the dismissal of MCOP No.2287/2016 earlier for default.

- (4) Considering the fact that the Appeal cannot be now entertained on merits having regard to the specific findings which are unassailable, this Court is inclined to permit the appellant to withdraw the appeal with liberty to file a petition to set aside the exparte decree under Order 9 Rule 13 of CPC.
- (5) Accordingly, this Civil Miscellaneous Appeal stands **dismissed as withdrawn**. Liberty sought for, is granted. No costs. consequently, connected miscellaneous petition is closed.

[SSSRJ] [AANJ]

06.01.2023

AP

Internet : Yes

Neutral Citation : Yes / No



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CMA.No.5/2023

To

- 1.The Judge,
Motor Accidents Claims Tribunal
II Small Causes Court
Chennai.
- 2.The Managing Director
Tamil Nadu State Express Transport
Corporation Limited
Pallavan Salai
Chennai 600 002.
- 3.The Section Officer
VR Section, High Court
Chennai.



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CMA.No.5/2023

S.S.SUNDAR, J.,

AND

A.A.NAKKIRAN, J.,

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CMA.No.5/2023

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