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CRP.No.899 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2023

CORAM:

THE HONOURABLE MRS.JUSTICE **T.V.THAMILSELVI**

CRP.No.899 of 2023 and
CMP.No.6742 of 2023

The Managing Director,
Tamilnadu State Transport Corporation(Salem) Ltd.,
Regional Office, Bharathipuram, Dharmapuri – 5

... Petitioner

Vs.

1.Soundhamani
2.Minor. Mouli
3.Minor. Thirunaprabhu
4.Rani
5.Rajamanikam

... Respondents

PRAYER: Civil Revision petition is filed under Article 227 of the Constitution of India to set aside the order in EP.No.124 of 2021 in MCOP.No.261 of 2020 passed by the Motor Accident Claims Tribunal, Special District Court, Krishnagiri passed on 03.02.2023 and to allow this revision petition.

For Petitioner : Mr.D.Nitin

For Respondents

For R1 : Mr.SP.Yuaraj



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ORDER

Challenging the order passed by the Executing Court in EP.No.124 of 2021 in MCOP.No.261 of 2020 passed by the Motor Accident Claims Tribunal, Special District Court, Krishnagiri, the judgment debtor has preferred this revision.

2. The learned counsel for the petitioner submits that they remained exparte in MCOP proceedings due to lack of communication and they filed application to set aside the exparte decree along with delay condonation application in IA.No.4 of 2023 and the same is pending. But based on the exparte decree, the decree holders / claimants preferred execution petition and in the execution petition, the Executing Court ordered attached of bus bearing Regn.No.TN 29 N 3055.

3. The learned counsel for the petitioner submits that they are having valid defence, but if the bus is not permitted to ply in the said road, they will be put to much hardship.



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4. However, the learned counsel for the first respondent submits that the deceased died due to negligent driving leaving behind the respondents as his legal heirs and out of them, two of them are little children and they have no other source of income. But wantonly, the transport officials not appeared before the Court. Hence, he raised objection.

5. On perusal of records, revealed that based on the exparte award, Rs.38,00,000/- was awarded by the Tribunal. The transport officials remained exparte and exparte order was passed on 20.04.2021 by the Tribunal fixing liability of Rs.28,00,400/-. Based on that, now claimants have preferred execution petition. However, the transport officials filed application to set aside the exparte decree and the same is pending. In such circumstances, if the bus is attached and not permitted to ply, they will be put to much hardship. Therefore, the reason assigned by them is justifiable and considering the family circumstances of the legal heirs, this Court is inclined to set aside the findings of the court below.

6. Accordingly, the findings of the Execution Court in EP.No.124 of 2021 in MCOP.No.261 of 2020 passed by the Motor Accident Claims Tribunal,



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Special District Court, Krishnagiri on 03.02.2023 are set aside on condition

that the petitioner shall deposit Rs.15,00,000/- (Rupees Fifteen Lakhs only) to the credit of MCOP.No.261 of 2020 within a period of four weeks from the date of this order. On such deposit, the claimants are permitted to withdraw Rs.10,00,000/- (Rupees Ten Lakhs only) by filing undertaking affidavit before the executing court as per manner known to law and remaining Rs.5,00,000/- ordered to be kept in fixed deposit until disposal of MCOP.

7. With the above directions, this civil revision petition is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

28.03.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

lok

Note: Issue order copy on 03.04.2023



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T.V.THAMILSELVI, J.

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To
The Motor Accident Claims Tribunal,
Special District Court,
Krishnagiri

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