



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Thursday, the Sixteenth day of March Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice R.VIJAYAKUMAR

CMP (MD) . No.12206 of 2022

in

C.M.A (MD) 786 of 2019

1.S. Subramonia Pillai,

2.S.Umashankar

... Petitioner/Respondens 1 and 2

Vs

1 Tamil Nadu State Express Transport Corporation,
Represented by its Managing Director,
Nagercoil, Nagercoil Village,
Agasteeswaram Taluk,
Kanyakumari District. ... 1st Respondent / Appellant

2 T. Thangam, ... 2nd Respondent/3rd Respondent

Prayer :-

This Petition is filed under Order 41 Rule 21 r/w section 151 of C.P.C to rehear the above Civil Miscellaneous Appeal in C.M.A. (MD) . No. 786 of 2019 which was disposed of by this Honourable Court on 16.12.2021.

Prayer in CMA(MD) . 786/ 2019 :

Civil Miscellaneous Appeal filed under section 173 of the Motor Vehicles Act 1988 to set aside the award and decree made in MCOP No.75 of 2014 dated 29.03.2019 on the file of the Motor Accident Claims Tribunal /Chief Judicial Magistrate Court Kanyakumari at Nagercoil.

ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Thiru.M.P.Senthil, Advocate for the Petitioners and of Thiru.P.Prabhakaran, Advocate for the first respondent, this Court made the following order:

This Civil Miscellaneous Petition has been filed to set aside the order passed in C.M.A. (MD) No.786 of 2019 and to rehear the above appeal, which was disposed of on 16.12.2021.

<https://www.mhctn.gov.in/judis>



2. According to the learned counsel appearing for the respondent, though they have filed a caveat, the caveat had expired and the name was not printed in the cause list. When the matter was listed for admission, this Court was pleased to order notice to the parties. After receiving the notice, the parties were under the impression that they have already entrusted the bundle to the counsel and they have not responded. Therefore, this Court has allowed C.M.A.(MD) No. 786 of 2016, on 16.12.2021 reducing the compensation.

3. In view of the above said facts, the learned counsel appearing for the respondents had filed the present application under Order 41, Rule 21 r/w Section 151 of C.P.C to set aside the said order and to rehear the said appeal.

4. Considering the above said facts that the order in the main appeal was passed without hearing the respondents and satisfied with the reasons for the said non-appearance, this Court is inclined to allow this application. The order passed in C.M.A.(MD) No.786 of 2019, dated 16.12.2021 is hereby set aside and this application filed under Order 41, Rule 21 r/w Section 151 of C.P.C stands allowed. Civil Miscellaneous Appeal in C.M.A(MD) No.786 of 2019 is restored to the file.

Sd/-

Assistant Registrar(CS I)

// True Copy //

/07/2023

Sub Assistant Registrar(CS)

TO

The Chief Judicial Magistrate
Motor Accident Claims Tribunal
Kanyakumari at Nagercoil.

ORDER DATED : 16/03/2023

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ORDER

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CMP(MD) . No.12206 of 2022
in
C.M.A(MD)786 of 2019
Giving direction and etc.
as stated within.