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C.R.P. No. 4294 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2024

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

C.R.P. No. 4294 of 2022

and

C.M.P. No. 22555 of 2022

Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram.

... Revision Petitioner /
Judgment Debtor /
Respondent

Vs.

R.Palani

... Respondents /
Decree Holder /
Petitioner

PRAYER: Civil Revision Petition is filed under section 227 of the Constitution of India, to allow the above Civil Revision Petition against the Docket Order passed in E.A. No. 5 of 2022 in E.P. No. 7 of 2020 in M.C.O.P. No. 494 of 2008 dated 16.08.2022 on the file of the Motor Accident Claims Tribunal (I Additional District Judge) at Tindivanam.

For Petitioner : Mr. T.Chandrasekaran

For Respondent : Mr. A.Raja Ganapathi



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ORDER

This Civil Revision Petition has been preferred as against the Docket order in E.A. No. 5 of 2022 in E.P. No. 7 of 2020 in M.C.O.P. No. 494 of 2008 dated 16.08.2022 on the file of the Motor Accident Claims Tribunal (I Additional District Judge), Tindivanam.

2. According to the Petitioner, the respondent has filed the main claim petition in M.C.O.P. No. 494 of 2008 on the file of the Motor Accident Claims Tribunal (I Additional District Judge), Tindivanam, and an award was passed on 12.10.2009 for an amount of Rs. 3,56,000/- with 7.5% interest from the date of petition i.e., 27.02.2018 and with cost of Rs. 10,150/-. Aggrieved by the said award, the petitioner filed an appeal before this Court in C.M.A. No. 2089 of 2010 and the respondent also filed an appeal in C.M.A. No. 2808 of 2010 for enhancement of compensation and the same was allowed and compensation was enhanced from Rs. 3,58,093/- to Rs. 13,64,093/-. Thereafter, the respondent herein has filed E.P. No. 7 of 2020 to realize the enhanced compensation and the petitioner corporation also deposited the entire amount. Later, the respondent also without any protest filed memo of part satisfaction and received a sum of Rs. 19,69,688/- during April, 2022. Now, the E.A. No. 5 of 2022 claiming further sum of Rs. 3,09,292/- with wrong calculation. Based on the said claim, the Trial Court has directed the petitioner corporation to pay a sum of Rs.



3,11,911/-. Therefore, the said amount of calculation and the order passed by the

Trial Court is not in accordance with law.

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3. According to the respondent, the petitioner corporation has not deposited the entire amount and as per calculation memo filed by the petitioner corporation, there is a balance of Rs. 3,11,911/-. Therefore, the order passed by the Tribunal is in consonance with the decree passed by this Court in the appeal.

4. The learned counsel appearing for the petitioner would contend that the petitioner corporation has paid the entire amount and the respondent has wrongly calculated the amount. Therefore, the Trial Court has directed the petitioner corporation to deposit the balance amount of Rs. 3,11,911/- and the same is wrong. Thereafter, the order passed by the Trial Court is liable to be dismissed.

5. The learned counsel appearing for the respondent would contend that the petitioner corporation has not calculated the interest correctly and after making part payment, they deducted the principal amount instead of deducting the interest and cost. Therefore, there is a difference in the calculation made by the petitioner. Now the petitioner has filed a fresh calculation memo and whereby, the petitioner corporation is liable to pay the amount mentioned in the calculation memo. Therefore, the Trial Court has passed a reasoned order based



on the award passed by this Court.

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6. This Court heard both sides and perused the materials available on record.

7. The learned counsel appearing for the petitioner fairly conceded that the petitioner corporation omitted to deduct the interest and cost first and already deposited amount has been deducted for the principal amount and thereby, there is some error in the calculation. The respondent also drawn the attention of this Court that as per the order of Hon'ble Supreme Court of India in ***Gurpreet Singh -vs- Union of India*** reported in **2006 (8) SCC 457**, if the amount deposited by the judgment debtor falls short of the decretal amount, the decree holder is entitled to comply the rule of appropriation by appropriating the amount deposited towards the interest, then towards costs and finally towards principal amount due under the decree. Therefore, by compliance of the said appropriation, the respondent has calculated the amount and the Trial Court also passed the order based on the said calculation.

8. Therefore, the Trial Court has passed reasoned order and thereby the present Civil Revision Petition has no merits and deserves to be dismissed.

However, the parties can file a fresh calculation memo before the Trial Court,



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after which the Trial Court has to decide the same on merits since pending this petition the subsequent interest is also to be calculated.

9. With the above said observations, the Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

10.07.2024

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No
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To

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The Motor Accident Claims Tribunal
(I Additional District Judge) at Tindivanam.



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P.DHANABAL, J.,

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