

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 28.01.2015

CORAM

The Hon'ble Mr.Justice K.KALYANASUNDARAM

CRP NPD Nos.765 to 768 of 2003
and CMP Nos.8214 to 8217 of 2003

United India Insurance Co. Ltd.,
rep. By its Branch Manager
42, Mutt Street,
Kumbakkonam Town & Munsiffi ... Petitioner in all CRPs

Vs

Pitchaikannu ... 1st Respondent in CRP No.765 of 2003
Elanchiyam ... 1st Respondent in CRP No.766 of 2003
Nagammal ... 1st Respondent in CRP No.767 of 2003
Thangavel ... 1st Respondent in CRP No.768 of 2003

R.Selvaraj ... 2nd Respondent in all CRPs

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the judgment and decree in MCOP Nos.185/2001, 256/2001, 834/2000 & 833/2000 dated 28.09.2001, 19.10.2001 and 04.09.2001 on the file of Principal District Court, Principal Sub Court, Nagapattinam (in respect of MCOP No.185/2000, 834/2004 & 833/2000) and Additional Subordinate Court, Nagapattinam (in respect of MCOP No.256/2001) respectively.

For Petitioner : Mr.M.B.Raghavan
in all CRPs

सत्यमेव जयते
COMMON ORDER

These revision petitions have been filed by the insurance company challenging the award passed by the Motor Accident Claims Tribunal.

2. On 22.06.2000, the claimants while travelling in a mini bus bearing Regn.No.TN31 9599 met with an accident and filed claim petitions. The petitioner insurance/insurance company has filed counter disputing their liability on the ground that the mini bus was permitted to carry only 23 passengers, but at the time of accident, 80 passengers travelled in the bus.

3. The Tribunal, rejected the contention of the insurance company and awarded compensation holding that the insurance company is liable to pay the amount. Challenging the order, the present revisions have been filed.

4. Mr.M.B.Raghavan, learned counsel for the petitioner submitted that the tribunal has erred in fastening the liability on the insurance company in this case where the vehicle was overloaded and was carrying 80 passengers as against the capacity of 25 passengers. It is further submitted that the insurance company is not liable to pay the award amount.

5. In a judgment of the Hon'ble Supreme Court in United India Insurance Co. Ltd. v. K.M.Poonam, reported in 2011 ACJ 917, it is held as follows -

24. The liability of the insurer, therefore, is confined to the number of persons covered by the insurance policy and not beyond the same. In other words, as in the present case, since the insurance policy of the owner of the vehicle covered six occupants of the vehicle in question, including the driver, the liability of the insurer would be confined to six persons only, notwithstanding the larger number of persons carried in the vehicle. Such excess number of persons would have to be treated as third parties, but since no premium had been paid in the policy for them, the insurer would not be liable to make payment of the compensation amount as far as they are concerned. However, the liability of the Insurance Company to make payment even in respect of persons not covered by the insurance policy continues under the provisions of sub-section (1) of Section 149 of the Act, as it would be entitled to recover the same if it could prove that one of the conditions of the policy had been breached by the owner of the vehicle. In the instant case, any of the persons travelling in the vehicle in excess of the permitted number of six passengers, though entitled to be compensated by the owner of the vehicle, would still be entitled to receive the compensation amount from the insurer, who could then recover it from the insured owner of the vehicle.

6. In the present case, even though the insurance company has contended that at the time of accident, 80 passengers have travelled in the mini bus, but admittedly only eight passengers have filed claim petitions claiming compensation from the insurance company. In the light of the judgment of the Hon'ble Apex Court, cited supra, the Insurance company is liable to satisfy the award amount. I do not find any illegality or irregularity in the order passed the tribunal.

7. In the result, these Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

SD/-

Assistant Registrar(R)

//True copy//

Sub Assistant Registrar

To

1. The Principal District Judge,
Nagapattinam.

2.The Additional Subordinate Judge,
Nagapattinam.

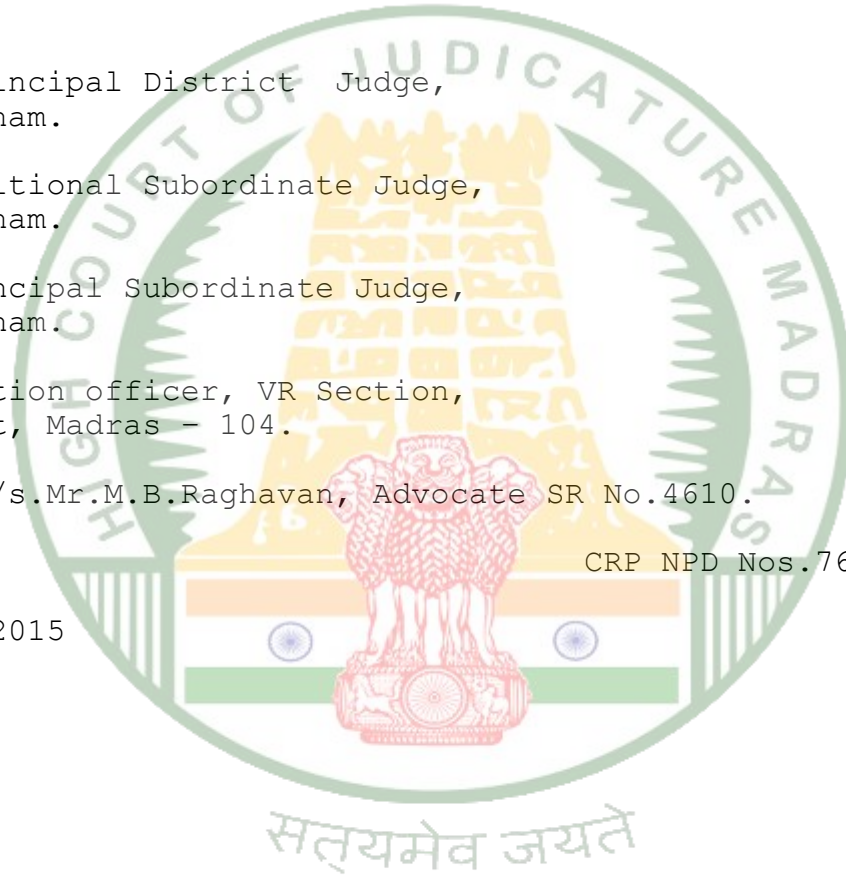
3.The Principal Subordinate Judge,
Nagapattinam.

4.The Section officer, VR Section,
High Court, Madras - 104.

4 CC to M/s.Mr.M.B.Raghavan, Advocate SR No.4610.

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RSK(CO)
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