

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2017

CORAM

THE HONOURABLE MR.JUSTICE M. DURAISWAMY

C.R.P.(PD).No.1166 of 2017
and C.M.P.No.5562 of 2017

United India Insurance Co. Ltd.,
No.17, N.S.C. Bose Road,
III Floor, Sowkarpet,
Chennai - 600 079.

... Petitioner

Vs.

1.K.Munnah
2.Saleem
3.Ameetha
4.Kaleem
5.Babu (Minor)
Rafeek (Deceased)
6.T.A.Shanmugasundar
7.The General Manager,
Southern Railway,
Park Town,
Chennai - 600 003.

... Respondents

(R5 being minor, rep by father/natural guardian K.Munnah)

Civil Revision Petition filed under Article 227 of the Constitution of India against the judgment and decree dated 24.06.2015 passed in M.P.No.4034 of 2015 in M.C.O.P.No.3519 of 2010 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai.

For Petitioner : Mr.C.Paranthaman

For Respondents : Mr.J.Harikrishna - R7

ORDER

Challenging the order passed in M.P.No.4034 of 2015 in M.C.O.P.No.3519 of 2010 on the file of the Motor Accident Claims Tribunal, VI Judge, Court of Small Causes, Chennai, the 2nd respondent/Insurance Company has filed the above Civil Revision Petition.

2.The claimants filed the Original Petition in O.P.No.3519 of 2010, claiming compensation for the death of one M.Aseena. The Insurance Company filed their counter and are contesting the Original Petition. In the M.C.O.P., the Insurance Company filed an application in M.P.No.4034 of 2015 under Order 1 Rule 10 of the Civil Procedure Code to implead the General Manager, Southern Railways, Park Town, Chennai, as the 3rd respondent in the Original Petition. According to the Insurance Company, the accident occurred inside the premises of the Southern Railways and therefore, the proposed party is a proper and necessary party for proper adjudication of the Original Petition.

3.Mr.J.Harikrishna, learned counsel taking notice for the proposed party submitted that they are not necessary parties. The Motor Accident Claims Tribunal, taking into consideration the case of both parties, dismissed

the application finding that the Original Petition has been filed claiming compensation in the road accident and therefore, the Railways is not a proper and necessary parties.

4. On a reading of the counter filed by the Insurance Company, it could be seen that the Insurance Company has not raised this point in their counter filed in the Original Petition. That apart, if the proposed party is a proper and necessary party and inspite of the same, they were not impleaded in the Original Petition, the defence available to the Insurance Company is to plead for dismissal of the petition for non-joinder of necessary parties. Therefore, at the instance of the respondent, a 3rd party cannot be impleaded in this petition. The Motor Accident Claims Tribunal, taking into consideration the case of both parties, rightly dismissed the petition.

5. I do not find any error or irregularity in the order passed by the Tribunal. The Civil Revision Petition is devoid of merits and the same is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Internet : Yes
va

M. DURAISWAMY,J.

va

To

The Motor Accident Claims Tribunal,
VI Court of Small Causes,
Chennai.

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