

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.112 of 2011
& M.P.No.1 of 2011

G.R.Matriculation School,
Pagalpatti,
Muthunaickan Patti Village and post
Omalur Taluk
Salem District.

.. Petitioner

Vs.

1.Raghu Raman
2.Seenivasan
3.A.Stalin

.. Respondents

PRAYER: Civil Revision Petition filed Under Article 227 of the Constitution of India, against the fair and decreetal order dated 02.03.2010, in I.A.No.620 of 2010 in M.C.O.P.No.293 of 2007, on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Salem.

For Petitioner : Mr.D.Shivakumaran

For R1 : No appearance

For R2 : No appearance

For R3 : Batta due

ORDER

This civil revision petition is filed against the fair and decreetal order dated 02.03.2010, in I.A.No.620 of 2010 in M.C.O.P.No.293 of 2007, on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Salem.

2. The petitioner is first respondent, first respondent is the claimant and second respondent is the second respondent in M.C.O.P.No.293 of 2007. First respondent filed the above claim petition, claiming a sum of Rs.5,00,000/- for the injuries sustained by him in the accident that occurred on 06.06.2003. The petitioner filed I.A.No.620 of 2009 for impleading one A.Stalin, who is the owner of the motor cycle bearing registration No. TN 72 B 9808 in which first respondent was riding at the time of accident.

3. According to the petitioner, the first respondent has admitted in the First Information Report that he was hurriedly driving the motor cycle and on seeing the school van, he applied the brake and dashed against the van. Driver of the van was acquitted in the criminal case. In view of the above facts, the owner of the motor cycle, the third respondent herein is necessary

and proper party. The first respondent filed counter affidavit and opposed the said application by submitting that the findings of the Criminal Court is not binding on the Tribunal.

4. The petitioner herein, requested the first respondent/claimant not to file any claim petition, which would spoil the reputation of the School and promised to pay compensation. But the petitioner did not pay any compensation and then only first respondent filed claim petition in the year 2007, for the accident that occurred on 06.06.2003. By delaying tactics of the petitioner, the first respondent lost his right to claim interest from 2003 till the date of filing of the claim petition. The driver of the van only is responsible for the accident and owner of the two wheeler, which the claimant was riding is not a necessary party. The petitioner has filed application after first respondent has let in evidence in M.C.O.P and when the claim petition posted for cross examination of the first respondent by the petitioner.

5. The Tribunal, considering the averments in the affidavit and counter affidavit, dismissed the application, holding that if the petitioner proves that the driver of the van is not responsible for

the accident, the claim petition would be dismissed.

6. Against the said order dated 02.03.2010 made in I.A.No.620 of 2010 in M.C.O.P.No.293 of 2007, the present civil revision petition is filed by the petitioner.

7. The learned counsel appearing for the petitioner submitted that the owner of the motor cycle which the claimant was riding and its insurer are necessary and proper party in order to decide the issue in the claim petition and to avoid multiplicity of proceedings. The Tribunal erred in not accepting the First Information Report, wherein the first respondent has admitted that he hurriedly drove the motor cycle and applied sudden brake and dashed against the van. The driver of the van was acquitted in the criminal case. The Tribunal, dismissed the application only on presumption and assumption.

8. Though notice was served on the second respondent and his name is printed in the cause list, there is no representation either in person or through counsel.

9. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

10. The petitioner seeks to implead the owner of the motor cycle in which the claimant was riding as a party respondent in the M.C.O.P., on the ground that driver of the van is not responsible for the accident and only the first respondent was responsible for the accident. This is not a sufficient reason for impleading the owner of the motor cycle. Only after appreciating the evidence let in by the parties, the Tribunal can come to the conclusion whether driver of the van was responsible for the accident or the first respondent was responsible for the accident.

11. The Judgment of the Criminal Court is not binding on the Tribunal and it can not be taken to assist the Tribunal for arriving at a decision. It is for the petitioner to prove that the accident did not take place due to the rash and negligent driving by the driver of the van. In that event, as rightly held by the tribunal, the claim petition filed by the respondent is dismissed.

V.M.VELUMANI, J.

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12. For the above reason, this civil revision petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

11.08.2017

Index: Yes/No
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To

- 1.G.R.Matriculation School,
Pagalpatti,
Muthunaickan Patti Village and post
Omalur Taluk
Salem District.
- 2.The Chief Judicial Magistrate,
(Motor Accident Claims Tribunal) Salem.



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