

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)Nos.2411 to 2413 of 2011
& M.P.Nos.1,1,1 & 2 of 2011

The United India Insurance Co. Ltd.,
D.O. 012000, 73-C, Mth Road,
Ambattur, Chennai-600 053.

.. Petitioner in
all C.R.Ps'

Vs.

1.Rani

..1st Respondent in
C.R.P.(NPD).No.2411/2011

1.Ambika

..1st Respondent in
C.R.P.(NPD).No.2412/2011

1.Pramila

..1st Respondent in
C.R.P.(NPD).No.2411/2011

2.C.Venkatesan

..2nd Respondent in
all the C.R.Ps'

PRAYER in all the C.R.Ps': Civil Revision Petitions filed under Article 227 of the Constitution of India, against the fair and decretal orders dated 04.05.2010, made in M.C.O.P.Nos.2, 5 & 6 of 2009, on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Thiruvallur.

For Petitioner	: Mr.J.Michael Visuvasam
For R1	: Not ready in notice
For R2	: Given up

ORDER

These Civil Revision Petitions are filed against the fair and decretal orders dated 04.05.2010, made in M.C.O.P.Nos.2, 5 & 6 of 2009, on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Thiruvallur.

2. The issue involved in all the civil revision petitions are one and the same and therefore, disposed of by this common order.

3. The petitioner Insurance Company is the second respondent, first respondent in all the civil revision petitions are the claimants and second respondent owner is the first respondent in M.C.O.P.Nos.2, 5 & 6 of 2009, on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Thiruvallur. The first respondent in all the civil revision petitions filed the said M.C.O.Ps against the petitioner and second respondent, claiming a sum of Rs.50,000/-, Rs.1,00,000/- and Rs.50,000/- respectively as compensation for the injuries sustained by them in the accident that occurred on 15.04.2008 at about 12.00 p.m. According to the

first respondent, they have travelled along with two others in the share auto bearing Registration No.TN-20-AD 5259 belonging to the second respondent and insured with the petitioner. Due to rash and negligent driving by the driver of the auto, the auto capsized and fell into a pit and caused accident. The first respondent in all the civil revision petitions sustained injuries and they took treatment. The petitioner is insurer of the vehicle. Therefore, the respondents in all the civil revision petitions filed claim petition, claiming compensation against the petitioner and second respondent. The second respondent remained exparte before the Tribunal.

4. The petitioner filed counter affidavit and denied all the averments made by the first respondent and submitted that the capacity of the auto is five persons. The said auto was permitted to carry five persons. There is no valid permit for the auto and therefore, the petitioner is not liable to pay any compensation and further, submitted that the compensation claimed by the first respondent is excessive. The first respondent exaggerated the injuries for claiming higher compensation and prayed for dismissal.

5. Before the Tribunal, all the claimants were examined as Pws.1 to 5 and marked 11 documents as Exs.P1 to P11. The petitioner did not let in any oral or documentary evidence. The Tribunal considering the pleadings, oral and documentary evidence, came to the conclusion that the accident occurred only due to rash and negligent driving by the driver of the auto and considering the fact that the petitioner did not produce insurance policy and did not let in any evidence that auto in which first respondent in all the civil revision petitions travelled is not the share auto and petitioner also did not produce the permit and registration certificate issued to the second respondent to show that capacity of the auto, held that the petitioner and second respondent is liable to pay compensation and considering the nature of injuries awarded a sum of Rs.8,000/- as compensation to the first respondent in all the civil revision petitions with interest at 7.5% p.a from the date of petition till the date of realization with proportionate cost.

6. Against the said award dated 04.05.2010, made in M.C.O.P.Nos.2, 5 & 6 of 2009, the present civil revision petitions are filed by the petitioner.

7. The learned counsel appearing for the petitioner contended that only three persons can travel in the auto and admittedly five persons travelled. In view of the judgment of the Hon'ble Apex Court, reported in "**2007 (2) TN MAC 193 (SC) (National Insurance Co. Ltd. Vs. Anjana Shyam and others)**", the petitioner is liable to pay compensation only to the highest three amounts awarded by the Tribunal. The said contention is without any merits. The first respondent in all the civil revision petitions have stated that they travelled in a share auto. The capacity of the share auto is more than the capacity of the regular auto. The petitioner has himself admitted in the counter affidavit that capacity of the auto is five persons. The petitioner has not produced permit and registration certificate issued to the second respondent to show that capacity is only three persons. No evidence was let in to disprove the contention of the first respondent that they travelled in a share auto. Tribunal, considered all these aspects and passed award, holding that petitioner and second respondent is liable to pay compensation. There is no irregularity or illegality warranting interference with the order of the learned Trial Judge dated, 04.05.2010.

V.M.VELUMANI, J.

gsa

8. In the result, all the civil revision petitions are dismissed.
No costs. Consequently, connected miscellaneous petitions are closed.

17.08.2017

Index: Yes/No
gsa

To

1. The United India Insurance Co. Ltd.,
D.O. 012000, 73-C, Mth Road,
Ambattur, Chennai-600 053.
2. The Chief Judicial Magistrate,
The Motor Accident Claims Tribunal,
Thiruvallur.

सत्यमेव जयते

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