

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.2649 of 2011
& M.P.No.1 of 2011

M/s ICICI Lombard General Insurance
Company Limited,
Branch Office at
Swarnambigai Plazaar, Ist floor,
No.33, Omalur Main Road
Near Bus Stand, Salem Town
and District.

.. Petitioner

Vs.

1. Muthu
2. M.Madhaiyan

.. Respondents

PRAYER: Civil Revision Petitions filed Under Article 227 of the
Constitution of India, against the fair and decreetal order dated
04.01.2011, made in M.C.O.P.No.10 of 2009, on the file of the
Motor Accident Claims Tribunal (Additional District Judge) (Fast
Track Court), Dharmapuri.

For Petitioner : Mr.R.Sreevidhya

For R1 : No appearance

For R2 : given up

ORDER

This civil revision petition has been filed against the fair and decreetal order dated 04.01.2011, made in M.C.O.P.No.10 of 2009, on the file of the Motor Accident Claims Tribunal (Additional District Judge) (Fast Track Court), Dharmapuri.

2. The petitioner is second respondent, first respondent is the petitioner, and second respondent is the first respondent in M.C.O.P.No.10 of 2009, on the file of the Additional District Judge, (Fast Track Court), Dharmapuri. The first respondent has filed the said claim petition, claiming a sum of Rs.1,00,000/- for the injuries sustained by him in the accident that occurred on 12.11.2008.

3. According to the first respondent, the second respondent is the owner of the vehicle which is insured with the petitioner. On the date of accident, the first respondent travelled in the vehicle along with his goods. Due to rash and negligent driving by the driver of the TATA ACE Mini Van, bearing Registration No.TN-29-AY-5743, the accident occurred and petitioner sustained injuries and his goods also got damaged. The second respondent remained exparte.

4. The petitioner filed counter affidavit and denied all the averments made by the first respondent. According to the petitioner, no such accident occurred. First Information Report was falsely registered. The first respondent travelled along with others, contrary to the policy conditions. The vehicle was not insured with the petitioner.

5. Before the Tribunal, the first respondent examined himself as PW1 and marked 7 documents as Ex.P1 to P7. The second respondent examined one Balamurugan, an employee of the petitioner, as RW1 and marked 3 documents as Ex.R1 to R3. The Tribunal, considering the pleadings, oral and documentary evidence, held that petitioner is liable to pay compensation and considering the nature of injuries sustained by the first respondent, awarded a sum of Rs.8,000/- as compensation.

6. Against the said award dated 04.01.2011, made in M.C.O.P.No.10 of 2009, the present civil revision petition has been filed by the petitioner.

7. The learned counsel appearing for the petitioner submitted that the first respondent and others travelled in the goods carriage, contrary to terms of policy and no such accident occurred. The First Information Report, was falsely registered against the driver. The first respondent has stated in the counter affidavit that he travelled along with goods in the goods carriage.

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

9. It is well settled that owner of the goods travelling in the goods carriage is entitled to get compensation from Insurance Company. The petitioner has not let in any evidence to disprove the contention of the first respondent that he travelled with his goods as owner at the time of the accident. Similarly, the petitioner has not let in any evidence to show that no such accident has occurred and FIR was registered falsely.

10. In the circumstances, the conclusion of the learned Judge, based on the FIR that accident occurred as claimed by the first respondent and driver of the vehicle was responsible for said

accident and awarded a sum of Rs.8,000/- is correct. There is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 04.01.2011.

11. Accordingly, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

01.08.2017

Index : Yes/No
gsa

To

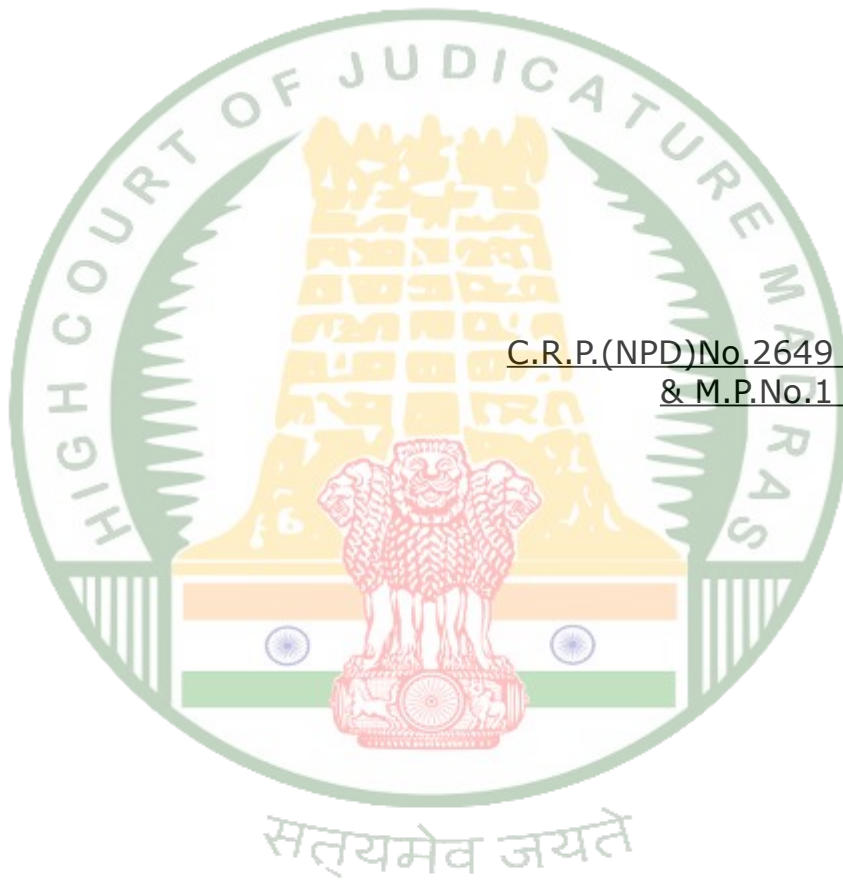
1. ICICI Lombard General Insurance Company Limited,
Branch Office at Swarnambigai Plazaar,
1st floor, No.33, Omalur Main Road
Near Bus Stand, Salem Town
and District.
2. Additional District Judge,
Fast Track Court, Dharmapuri.

सत्यमेव जयते

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V.M.VELUMANI, J.

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