

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.3776 of 2011
& M.P.No.1 of 2011

Branch Manager
New India Assurance Co. Ltd.,
No.66, W.B. Road
Trichy – 620 008.

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Petitioner

Vs.

1.N.Veerabathran
2.S.Qrseeth
3.The Managing Director
State Express Transport Corporation
Pallavan Salai,
Chennai – 600 002.

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Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India against the common award and decree dated 16.03.2005 passed in MCOP No.246 of 2004 on the file of the Motor Accident Claims Tribunal, Additional Special Court, Krishnagiri.

For Petitioner : Mr.R.Sivakumar

For Respondents : Not ready in notice
Reg. R1 to R3.

ORDER

This Civil Revision Petition has been filed against the common award and decree dated 16.03.2005 passed in MCOP No.246 of 2004 on the file of the Motor Accident Claims Tribunal, Additional Special Court, Krishnagiri.

2. The petitioner / Insurance company is the second respondent, the first respondent is the claimant and the respondents 2 & 3 are the respondent 1 & 2 in MCOP No.246 of 2004 on the file of Motor Accident Claims Tribunal, Additional Special Court, Krishnagiri. The first respondent / claimant filed the above MCOP claiming a sum of Rs.20,000/- as compensation for the injuries sustained by him in the accident occurred on 19.01.2004.

3. According to the first respondent, while he was travelling alongwith others in the bus belonging to the third respondent, the bus belonging to the second respondent, insured with the petitioner, driven in a rash and negligent manner, dashed against the bus in which the first respondent and others were travelling and caused the accident. Therefore, he filed claim petition claiming a sum of Rs.20,000/- as compensation against the petitioner and

the respondents 2 & 3.

4. The petitioner and third respondent filed separate counters and blamed the driver of the other vehicle.

5. Before the Tribunal, the first respondent and other claimants were examined as PWs1 to 4 and marked six documents viz. Exs.A1 to A6. The Tribunal, considering the pleadings, oral and documentary evidence, especially deposition of PWs1 to 4 and FIR, held that the accident took place only due to the rash and negligent driving by the driver of the vehicle belonging to the second respondent as the said bus suddenly came across the third respondent bus and caused the accident. Considering the nature of injuries, the Tribunal awarded a sum of Rs.5,000/- as compensation to the first respondent.

6. Against the said common award dated 16.03.2005 passed in MCOP No.246 of 2004, the present Civil Revision Petition has been filed.

7. The learned counsel appearing for the petitioner submitted that the first respondent, as PW1 has deposed that the

accident occurred only due to the rash and negligent driving by both the drivers. The learned Judge failed to see that FIR was given against the driver of the bus belonging to the third respondent and both the drivers were not examined.

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

9. The contention of the learned counsel for the petitioner is that first respondent has stated that the accident occurred due to the rash and negligent driving by the driver of both the buses. The learned Judge has recorded that the first respondent and other claimants have deposed that the accident occurred when the driver of the bus belonging to the second respondent suddenly came across the bus belonging to the third respondent and caused the accident. PWs1 to 4 have deposed that the accident occurred due to the rash and negligent driving by the second respondent as the said bus came across the third respondent bus and caused the accident.

10. Further, the contention of the learned counsel for the petitioner that FIR was given by the driver of the bus belonging to

the third respondent and Tribunal erred in accepting the same is untenable. The petitioner and the second respondent have not let in any evidence to show that they have objected to the version in the FIR as to how the accident occurred. In view of the same, the petitioner cannot find fault with the conclusion of the Tribunal. The Tribunal has given valid reason for the said finding and there is no irregularity or illegality in the order impugned in this revision warranting interference by this Court.

11. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

16.08.2017

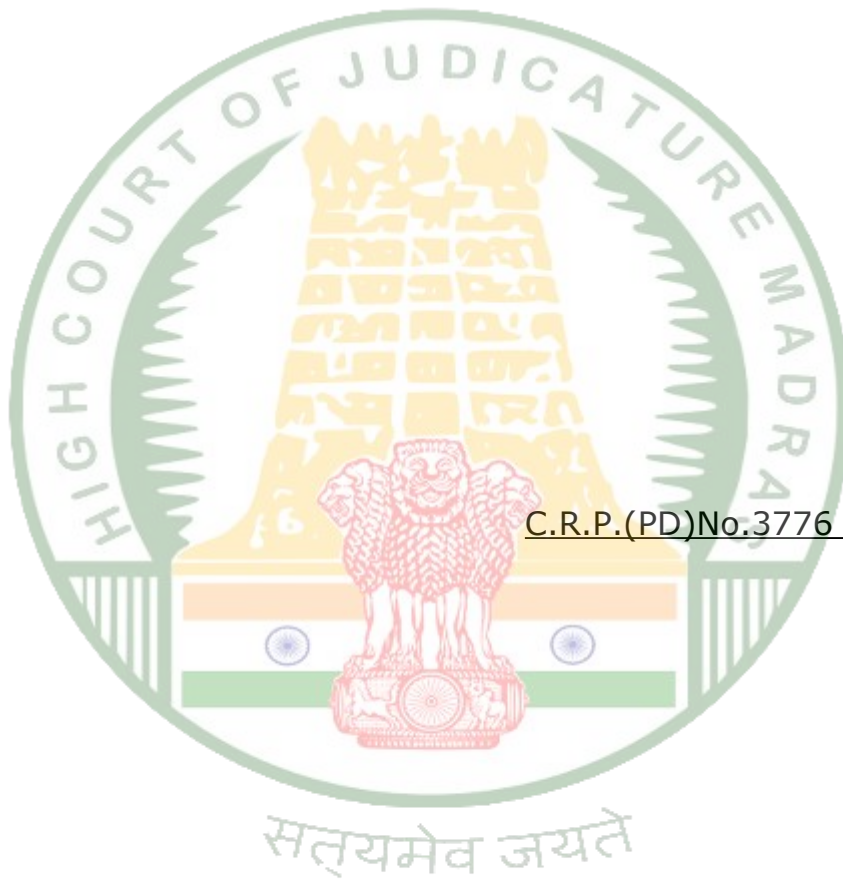
Index : Yes/No
rgr

To

The Additional Special Judge,
(Principal District Court)
Motor Accident Claims Tribunal,
Dharmapuri at Krishnagiri.

V.M.VELUMANI, J.

rgr



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