

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.3805 of 2015

1. Ayyakannu
2. Kanthasamy
3. Ramasamy
4. Arumugam
5. Subramaniyan
6. Makayi
7. Kannammal

... Petitioners

Vs.

1. Kalvarayan
2. The Oriental Insurance Co. Ltd.,
Kallakurichi & Taluk
Villupuam District.
3. Shakira bi
4. The United India Insurance Co. Ltd.,
Kallakurichi Taluk
Villupuram District.

.. Respondents

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PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 25.09.2014 made in I.A.No.565 of 2014 in MACTOP No.130 of 2010

on the file of the III Additional District and Sessions Court, Kallakurichi.

For Petitioners : Mr.A.G.Rajan

For R1 and R2 : No appearance

For R3 : Ms.V.Porkodi

For R4 : Mr.C.Paranthaman

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 25.09.2014 made in I.A.No.565 of 2014 in MACTOP No.130 of 2010 on the file of the III Additional District and Sessions Court, Kallakurichi.

2. The petitioners are claimants and respondents are the respondents in M.C.O.P.No.130 of 2010. The petitioners filed the said claim petition for claiming compensation for the death of one Kuppayee ammal, who died in the accident that occurred on 04.07.2007. Subsequently, the petitioners filed an application to implead the respondents 3 and 4 on the ground that tipper attached

to the tractor was also involved in the accident. The said application was ordered and respondents 3 and 4 were impleaded as respondents 3 and 4 in the M.C.O.P. After commencement of trial, the petitioners filed present application in I.A.No.565 of 2014 under Order VI Rule 17 of C.P.C. to amend the claim petition (i) to delete "Vehicle No.TN-32-Z-9068 (Tractor)" and to include "TN-32-S-8221 and TN-32-Z-9068 (Tractor and Tipper)"; (ii) to delete "TN-32-Z-9068 (Agriculture Tractor)" and to include "TN-32-S-8221 and TN-32-Z-9068 (Tractor and Tipper)"; and (iii) to delete "TN-32-Z-9068" and to include "TN-32-S-8221 and TN-32-Z-9068 (Tractor and Tipper)";

3. According to the petitioners, they have wrongly stated the registration number of the vehicle involved in the accident.

4. The fourth respondent filed counter affidavit and opposed the said application.

5. The learned Judge considering the evidence let in on behalf of the petitioners, averments made in the affidavit, counter affidavit and acquittal of the driver in the criminal proceedings, dismissed the application holding that the present application is filed only to drag

on the proceedings.

6. Against the said order of dismissal dated 25.09.2014 made in I.A.No.565 of 2014 in M.C.O.P. No.130 of 2010, the present Civil Revision Petition is filed by the petitioners/claimants.

7. According to the petitioners, by mistake, the registration number of the vehicle involved in the accident and its details were wrongly mentioned. Whether the accident occurred due to rash driving of the tractor with tipper or not and whether the said vehicles are involved in the accident or not can be decided only by appreciation of evidence let in by the parties. As the respondents 3 and 4 are impleaded as respondents, it is necessary to amend the claim petition as sought for by the petitioner. In the circumstances, the reason given by the Tribunal for dismissing the application that the petitioner has come out with the present application only to drag on the proceedings, is not a valid reason.

8. In the result, the Civil Revision Petition is allowed by setting aside the order dated 25.09.2014 made in I.A.No.565 of 2014 in M.C.O.P. No.130 of 2010. After amendment, it is open to the respondents to file counter and additional counter in the main claim

petition, if they so desire or advised. As the claim petition is of the year 2010, the Tribunal is directed to dispose the same as expeditiously as possible, in any event, not later than three months from the date of receipt of a copy of this order. No costs.

05.12.2017

Index : Yes

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To

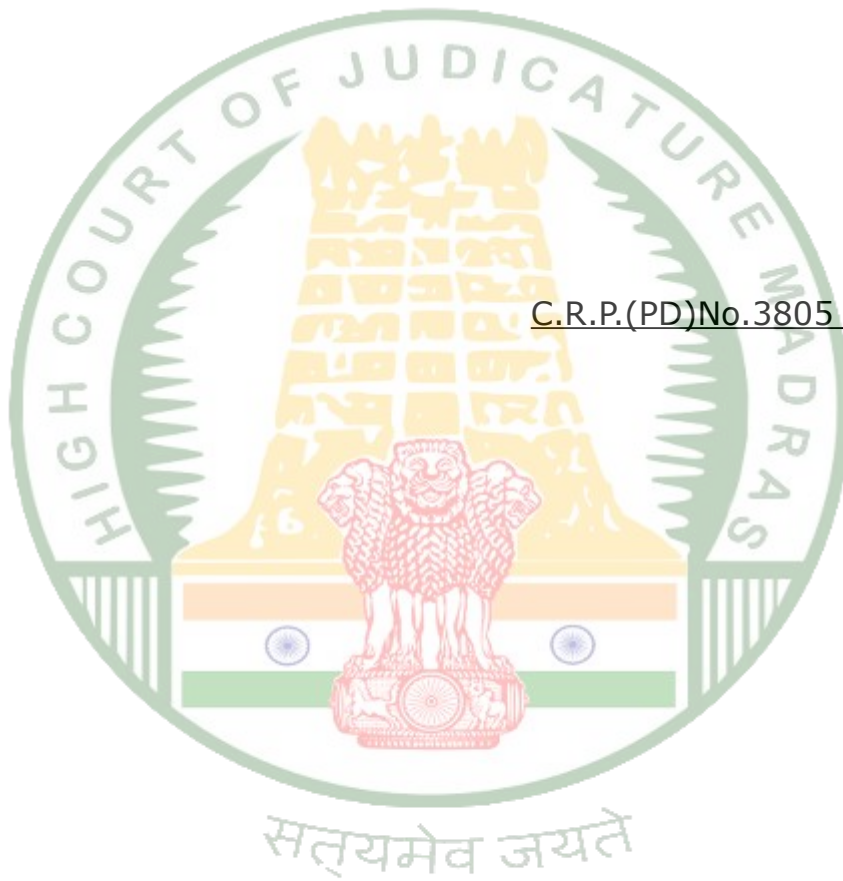
The III Additional District and Sessions Judge
Kallakurichi.



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V.M.VELUMANI, J.

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