

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD) Nos.1531 & 1532 of 2007
and M.P.Nos.1 & 1 of 2003

The New India Assurance Co. Ltd.,
Officers Line, Vellore -1.

.. Petitioner in
both the C.R.Ps

Vs.

1. Gangadharan

..1st Respondent in
C.R.P.No.1531/2007

1. Murugesan

..1st Respondent in
C.R.P.No.1532/2007

2. V.N.Rajendiran
Respondent in

..2nd

both the C.R.Ps'

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution Of India against the fair and decretal orders dated 28.04.2006 made in M.C.O.P.Nos.72 & 74 of 2002 on the file of the Motor Accident Claims Tribunal Gudiyatham Vellore District.

For Petitioner : Mr.K.Padmanabhan

For R1 : Not ready in notice

For R2 : Exparte (Dispensed with)

ORDER

These Civil Revision Petitions are filed against the fair and decretal orders dated 28.04.2006 made in M.C.O.P.Nos.72 & 74 of 2002 on the file of the Motor Accident Claims Tribunal, Gudiyatham Vellore District.

2. The petitioner insurance company is the second respondent, first respondent in both the Civil Revision Petitions are the petitioners and second respondent is the first respondent in the M.C.O.P.Nos.72 & 74 of 2002 respectively on the file of the Motor Accident Claims Tribunal, Gudiyatham Vellore District. The petitioner is challenging the award dated 28.04.2006, directing the petitioner and second respondent to pay the compensation amount.

3. According to the petitioner, the first respondent in both the Civil Revision Petitions along with others travelled in the goods carriage as a paid passengers in violation of permit and policy condition and therefore, the petitioner insurance company is not liable to pay any compensation. The Tribunal, erred in directing the petitioner also to pay the compensation. The Tribunal erred in

holding that 6 persons can travel in the vehicle along with the driver and only 5 persons were injured, failing to see that others also travelled in the vehicle and they also filed claim petitions.

4. Against the orders dated 28.04.2006 made in M.C.O.P.Nos.72 & 74 of 2002, the present two Civil Revision Petitions are filed by the petitioner.

5. The learned counsel for petitioner contended that petitioner is not liable to pay any compensation as the first respondents in both the Civil Revision Petition travelled in goods carriage as paid passengers. The learned counsel appearing for the petitioner relied on the following two judgments :

(i) 2017 (2) TN MAC 214 (Branch Manager, Bajaj Allianz General Insurance Co. Ltd., Vs. Diwan Ali and another)

(ii) 2017 (2) TN MAC 261 (United India Insurance Co. Ltd., Vs. Sheela and another)

6. The second respondent, owner of the vehicle remained exparte before the lower Court. Therefore notice is dispensed with to the second respondent. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

7. The above contention of the learned counsel appearing for the petitioner has considerable force and it is acceptable in view of the well settled judicial pronouncement of this Court as well as the Hon'ble Apex Court. At the same time considering the contention of the learned counsel appearing for the petitioner, it has to be taken into consideration that the provision for compensation as per the Motor Vehicles Act is a beneficiary legislation and victims should not be suffered. In the present case, the Tribunal has awarded only a meagre sum of Rs.5,000/- to each of the first respondents in both the Civil Revision Petitions. In view of the well settled judicial pronouncement, the award of the Tribunal directing the petitioner to pay the compensation is erroneous. Considering the fact that the Tribunal has awarded only a meagre amount of a sum of Rs.5,000/- , I am not inclined to set aside the said portion of the award directing the petitioner to pay the compensation. In view of the same, instead of setting aside the award against the petitioner, the

award is modified, directing the petitioner to pay the compensation at the first instance and recover the same from the second respondent by filing E.P against the second respondent.

8. With the above modification, both the Civil Revision Petitions are disposed of. No costs.

22.09.2017

Index: Yes/No
gsa

To

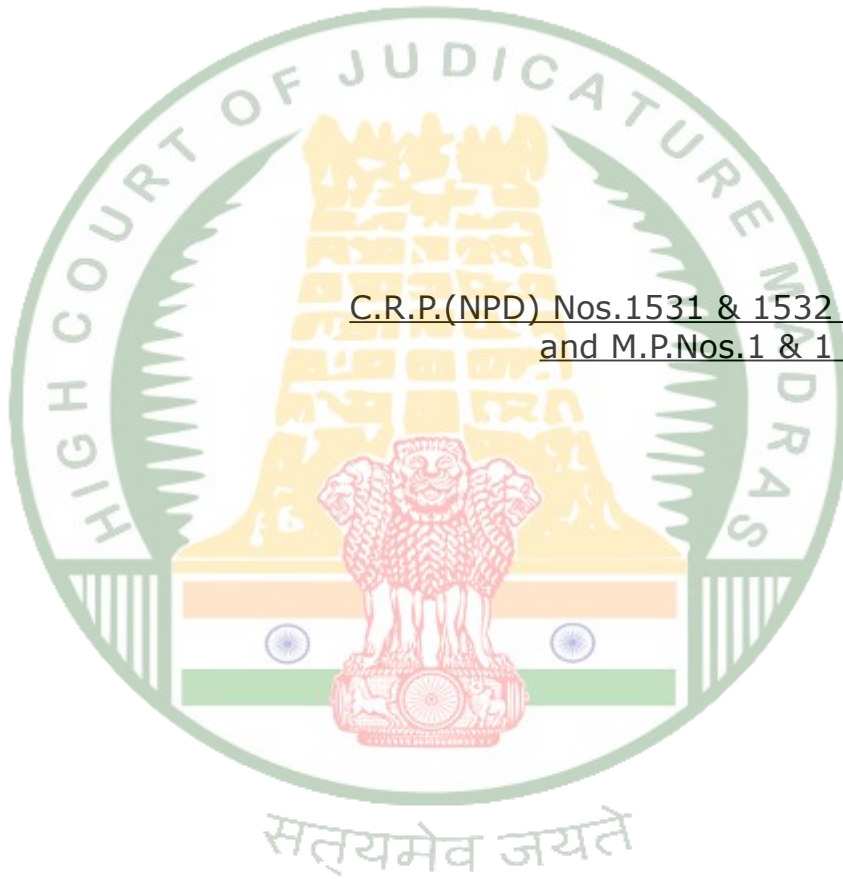
The Subordinate Judge,
Motor Accident Claims Tribunal
Gudiyatham,
Vellore District.



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V.M.VELUMANI,J.

gsa



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