

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.No.222 of 2007
& M.P.No.1 of 2007

Branch Manager
National Insurance Co. Ltd.,
Thiruvavarur. ... Petitioner

Vs.

1. K.Aarayi
2. The Commissioner
Thiruvavarur Municipality,
Thiruvavarur Taluk. ... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 05.10.2004, made in M.C.O.P.No.42 of 2003 on the file of the Motor Accidents Claims Tribunal, Thiruvavarur.

For Petitioner : Mr.S.Arun Kumar

For Respondents : No appearance

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 05.10.2004, made in M.C.O.P.No.42 of 2003 on the file of the Motor Accidents Claims Tribunal, Thiruvavarur.

2. The petitioner is second respondent, first respondent is the claimant and second respondent is the first respondent in M.C.O.P.No.42 of 2003 on the file of the Motor Accidents Claims Tribunal, Sub Court, Thiruvavarur. The first respondent filed the above claim petition, claiming a sum of Rs.50,000/- as compensation for the injuries suffered by her in the accident that occurred on 01.05.2002.

3. According to the first respondent, she was employed temporarily by the second respondent herein. On 01.05.2002, when she was travelling in a tempo van bearing Registration No.TN-50-A-0265, belonging to the second respondent, the driver drove the vehicle in a rash and negligent manner and caused accident, out of which the first respondent suffered

injuries and therefore, she filed the said claim petition, claiming a sum of Rs.50,000/- as compensation.

4. The second respondent herein, filed counter affidavit and submitted that the driver of the van was driving the vehicle carefully and cautiously. At that time, a small boy suddenly crossed the road. In order to avoid hitting the boy, he turned the van towards right side, due to which the vehicle dashed against the cement wall and thereby, accident occurred. The first respondent did not suffer any serious injury. The vehicle was insured with the petitioner at the time of the accident. Therefore, the petitioner alone is liable to pay the compensation.

5. The petitioner filed counter affidavit and submitted that at the time of accident, more than ten persons, were travelling in the van, contrary to the policy conditions and therefore, the petitioner is not liable to pay any compensation.

6. Before the Tribunal, the first respondent examined herself as PW1 and marked three documents as Ex.A1 to A3. The driver of the van was examined as RW1 and an official of the petitioner was examined as RW2 and marked five documents as Ex.B1 to B5.

7. The Tribunal, considering the pleadings, oral and documentary evidence, came to the conclusion that the accident occurred only due to the rash and negligent driving by the driver of the tempo van, belonging to the second respondent and the vehicle was insured with the petitioner at the time of accident and held that the petitioner and second respondent are liable to pay the compensation. Considering the nature of injury suffered by the first respondent, the Tribunal awarded a sum of Rs.5,000/- as compensation.

8. Against the said order dated 05.10.2004 made in M.C.O.P.No.42 of 2003, the present civil revision petition is filed by the petitioner.

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

10. The learned counsel appearing for the petitioner submitted that from the FIR, which was marked as Ex.A1, it is seen that ten persons travelled in the tempo van, in violation of policy condition and therefore, submitted that the petitioner is not liable to pay any compensation. The learned Tribunal, did not consider the objection raised by the petitioner.

11. From the materials on record, it is seen that the first respondent, an employee of second respondent travelled in the van. They are not gratuitous or unauthorized

passengers. The petitioner has not examined any independent witness to prove that at the time of accident, ten persons were travelling in the tempo van. The first respondent was working as a temporary scavenger and belongs to downtrodden community. The Motor Vehicle Act is a beneficial legislation and a person who suffered injury should not be deprived of rightful compensation, in view of the technicalities.

12. The Tribunal has awarded only a sum of Rs.5,000/-, while, the first respondent claimed Rs.50,000/- as compensation. For the above reason, the civil revision petition is devoid of merits and is liable to be dismissed.

13. In the result, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

To

1. The Subordinate Judge,
Motor Accident Claims Tribunal,
Thiruvarur

+1cc to Mr.S.Arunkumar, Advocate sr.52598

Copy to:

The Section Officer,
VR Section,
High Court, Madras-104.

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C.R.P.No.222 of 2007
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