

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD) No.2728 of 2008

S.Mani

.. Petitioner

Vs.

1.M.Naresh Kumaran

2.The Divisional Manager,
The Oriental Insurance Company Ltd.,
Katpadi Road,
Vellore.

3.Ganesan

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 05.10.2007 made in M.C.O.P.No.464 of 2001 on the file of the Principal Subordinate Judge, Thiruvannamalai.

For Petitioners : Mr.G.Rajan

For R1 & R2 : No appearance

For R3 : Not ready in notice

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 05.10.2007 made in M.C.O.P.No.464 of 2001 on the file of the Principal Subordinate Judge, Thiruvannamalai.

2. The first respondent filed a claim petition in M.C.O.P.No.464 of 2001, on the file of the Principal Subordinate Judge, Thiruvannamalai, against the petitioner and respondents 2 and 3, claiming for a sum of Rs.25,000/- for the injuries sustained by him in the accident that occurred on 05.05.2001 at about 6.00 a.m. According to the first respondent, he along with others travelled in the van bearing Registration No. TN 25 A 9855, belonging to the petitioner and insured with the second respondent. Due to rash and negligent driving by the driver of the van belonging to the petitioner, the accident occurred.

3. The petitioner remained exparte before the Tribunal.

4. The second respondent filed counter affidavit and contended that the third respondent did not have valid licence to drive the tourist vehicle and therefore the second respondent, insurer of the vehicle is not liable to pay the compensation.

5. The claim petition filed by the first respondent was taken up along with other claim petitions.

6. Before the Tribunal, on the side of the first respondent and other claimants, Pws1 to 5 were examined and marked Exs.P1 to P11. The second respondent examined two witnesses as Rws 1 and 2 and three documents were marked as Exs.R1 to R3.

7. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred only due to the rash and negligent driving by the driver of the van belonging to the petitioner and held that both the petitioner and second respondent are liable to pay the compensation. Considering the nature of the injuries, the Tribunal awarded a sum of Rs.4,000/- as compensation to the first respondent and directed the second respondent to pay the compensation at the first instance and recover the same from the petitioner, as the third respondent driver did not get the endorsement for driving the tourist vehicle.

8. Challenging that portion of the award dated 05.10.2007, made in M.C.O.P.No.464 of 2001, the petitioner has come up with the present Civil Revision Petition.

9. Heard the learned counsel appearing for the petitioner and perused the materials available on record. Though notice was served on the respondents 1 and 2 and their names are printed in the cause list, there is no representation either in person or through counsel.

10. The Tribunal, having held that the third respondent is having valid licence to drive the light motor vehicle and that both the petitioner and second respondent are liable to pay compensation, erred in ordering pay and recovery on the ground that the third respondent has not got the endorsement for driving the tourist vehicle.

11. In view of the said error, the order of the Tribunal is set aside only with regard to pay and recovery and in all other aspects the award is confirmed. With the above observation, the Civil Revision Petition is partly allowed. No costs.

19.09.2017

Index: Yes/No
gsa

To

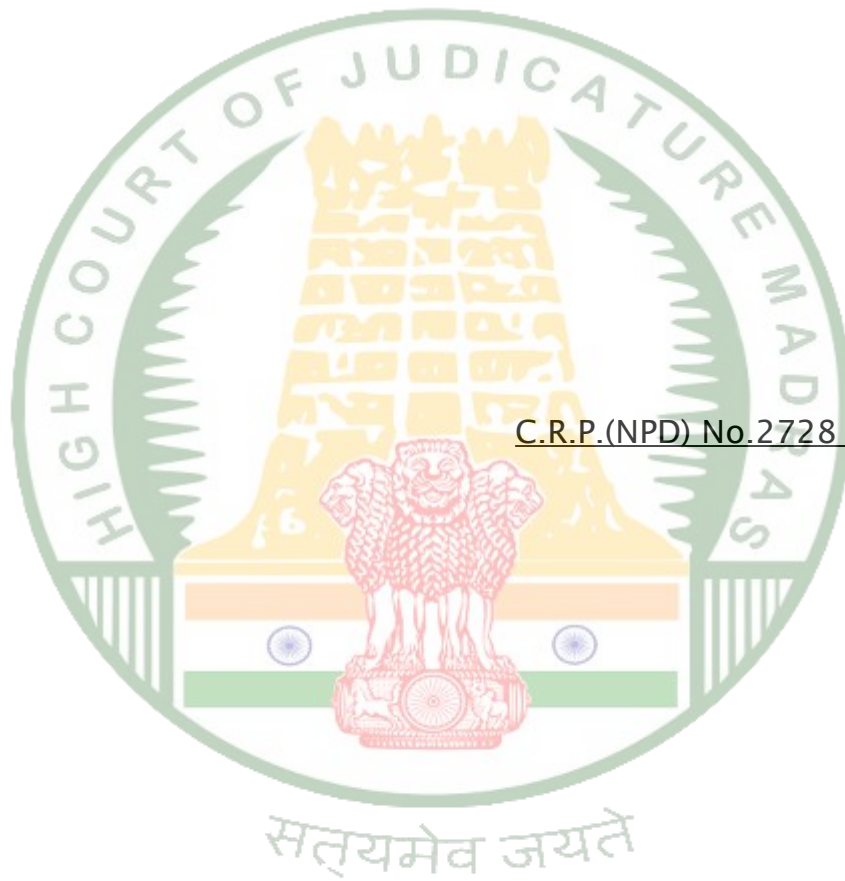
The Principal Subordinate Judge,
Thiruvannamalai.



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V.M.VELUMANI,J.

gsa



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