

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD) No.241 of 2013
and
M.P.No.1 of 2013

A. Balu

.. Petitioner

Vs.

1.Kamala
2.Minor Naveen @ Vinayagamoorthy
3.Arjunan
4.Rani
5.The Branch Manager,
New India Assurance Co. Ltd.,
Pondicherry.

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order in I.A.No.627 of 2009 in M.C.O.P.No.213 of 2009 dated 01.11.2012 on the file of the learned II Additional District Judge, (Motor Accident Claims Tribunal), Tindivanam and thereby allow the revision.

For Petitioner : Mr.N.Suresh

For Respondents : Mr.M.Sivavarthan for R1, 2 & 4
R3-Died
R5-No appearance

O R D E R

This Civil Revision Petition has been filed against the fair and decretal order made in I.A.No.627 of 2009 in M.C.O.P.No.213 of

2009 dated 01.11.2012 on the file of the learned II Additional District Judge, (Motor Accident Claims Tribunal), Tindivanam.

2.The petitioner herein is the first respondent in M.C.O.P.No.213 of 2009. The claim petition was originally filed in M.C.O.P. No.444 of 2007 before the Sub Court (Motor Accident Claims Tribunal), Tindivanam and subsequently, transferred and re-numbered as M.C.O.P.No.213 of 2009 and the said petition has been filed by the respondents 1 to 4 claiming compensation for the death of one A.Parasuraman against the petitioner and the fifth respondent/Insurance Company.

3.The Petitioner filed I.A.No.627 of 2009 to reject the claim petition in M.C.O.P.No.213 of 2009 under Order 7 Rule 11 of C.P.C. on the ground that the respondents 1 to 4 earlier filed the claim petition against one Vijaya and the fifth respondent in M.C.O.P.No.573 of 2002 on the file of the Sub Court, (Motor Accident Claims Tribunal), Tindivanam and subsequently withdrew the said claim petition as not pressed. According to the petitioner, the respondents have not obtained any leave of the Court to file a fresh claim petition.

4.The respondents 1 to 4 filed counter affidavit and submitted that earlier claim petition was not filed by them. The Advocate who has filed the said claim petition in M.C.O.P.No.573 of 2002 was not known to them and they also denied the signatures found in the said claim petition. They also contended that they have filed an application to implead the original owner Vijaya as a party to the petition.

5.The Tribunal, on 01.11.2012, dismissed the application holding that respondents 1 to 4 have denied the signatures found in the earlier claim petition in M.C.O.P.No.573 of 2002 and if the Insurance Company proves that the claim made by respondents 1 to 4 is false, it can be dismissed at that stage.

6.Heard the learned counsel for the petitioner and the learned counsel for the respondents 1, 2 and 4 and perused the materials available on record.

7.From the materials available on record, it is seen that the claim petition filed by respondents 1 to 4 had been amended as per order in I.A.No.7 of 2010 dated 01.11.2012 stating that the first

respondent in the claim petition in M.C.O.P.No.444 of 2007 (re-numbered as M.C.O.P.No.213 of 2009) has been substituted by one E.Vijaya, W/o.Elangovan as the first respondent instead of A.Balu, the petitioner herein. In view of the fact that the petitioner did not challenge the said claim petition and the Tribunal has held that whether the signatures in the earlier claim petition are that of respondents 1 to 4, can be decided only at the time of trial and if the Insurance Company/fifth respondent proves that the claim of respondents 1 to 4 is a false claim, it can be dismissed.

8.In the said circumstances, this Court is of the view that there is no infirmity or irregularity in the order of the trial Court dated 01.11.2012, warranting interference by this Court.

9.In the result, the Civil Revision Petition is dismissed as devoid of merits. Consequently, connected miscellaneous petition is dismissed. No costs.

06.10.2017

Index : Yes/No

Internet : Yes/No

kal

To

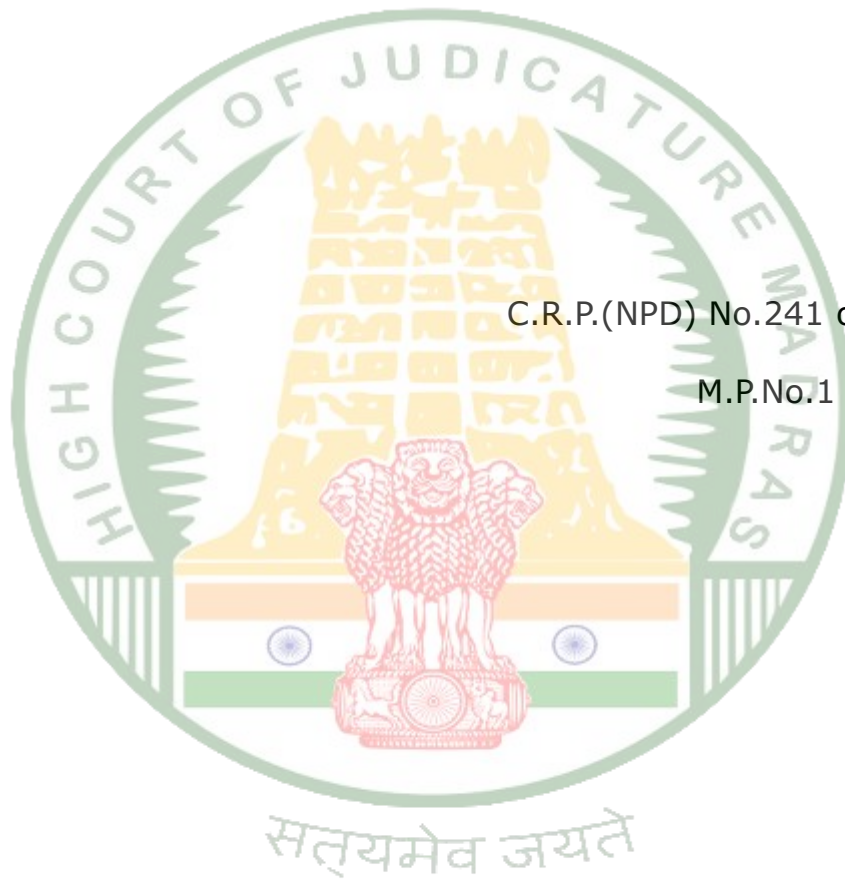
The II Additional District Judge,
(Motor Accident Claims Tribunal),
Tindivanam



WEB COPY

V.M.VELUMANI,J.

kal



C.R.P.(NPD) No.241 of 2013
and
M.P.No.1 of 2013

WEB COPY 06.10.2017