

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.3916 of 2009
& M.P.No.1 of 2011

National Insurance Co. Ltd.,
Salem – 1.

...

Petitioner

Vs.

1.Uma
2.Janarthanan
3.Mr.Babu Rao
4.Oriental Insurance Co. Ltd.,
Chennai
(Respondents 2 & 3 exparte before
lower court. Hence notice may be
dispensed with)

...

Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the
Constitution of India against the judgment and decree made in
MCOP No.85 of 1998 dated 29.07.2009 on the file of the Motor
Accident Claims Tribunal, Subordinate Court, Athur.

For Petitioner : Mr.N.Vijayaraghavan

For Respondents : No appearance for R1
R2 & R3 - exparte
Mr.Krishnamoorthy for R4

ORDER

This Civil Revision Petition has been filed against the judgment and decree made in MCOP No.85 of 1998 dated 29.07.2009 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Athur.

2. The petitioner is the second respondent, first respondent is the claimant, second respondent is the first respondent and the respondents 3 & 4 are the respondents 3 & 4 in the claim petition filed in MCOP No.85 of 1998 on the file of Motor Accident Claims Tribunal, Subordinate Court, Athur. The first respondent filed claim petition claiming a sum of Rs.4,00,000/- as compensation for the injuries sustained by her in the accident that took place on 15.09.1996.

3. According to the first respondent, while she was travelling with other passengers in a lorry bearing Regn.No.TAS 5212 belonging to the second respondent, insured with the petitioner, another lorry bearing Regn.No.TSH 959 belonging to the third respondent and insured with the fourth respondent, driven in a rash and negligent manner, dashed against the lorry in which the

first respondent and others were travelling and caused the accident. Therefore, the first respondent filed claim petition against the respondents and the petitioner claiming compensation.

4. The petitioner filed counter and stated that the driver of the other lorry was responsible for the accident and that the first respondent travelled in the lorry contrary to the policy condition. The 4th respondent filed separate counter and blamed that the driver of the other lorry was responsible for the accident. The learned Judge, considering the pleadings, oral and documentary evidence held that the accident occurred due to the rash and negligent driving by the driver of the tanker lorry belonging to the third respondent insured with the fourth respondent. After holding so, the Tribunal awarded a sum of Rs.3,000/- as compensation to the first respondent, directing the petitioner and the 4th respondent to jointly pay the said amount equally.

5. Against the said order dated 29.07.2009 made in MCOP No.85 of 1998, the present Civil Revision Petition has been filed.

6. Heard the learned counsel for the petitioner as well as fourth respondent and perused the materials available on record.

7. From the award of the Tribunal, it is clear that the Tribunal has held that the accident occurred only due to the rash and negligent driving by the driver of the tanker lorry belonging to the third respondent, insured with the fourth respondent. Having come to such a conclusion, the Tribunal ought not have directed the petitioner to pay 50% of the award amount to the first respondent. Thus, the Tribunal had committed irregularity and illegality in directing the petitioner to pay 50% of the compensation amount after holding that the accident occurred only to the rash and negligent driving by the driver of the tanker lorry. In view of the above circumstances, the order dated 29.07.2009 made in MCOP No.85 of 1998 is liable to be set aside in so far as directing the petitioner to pay 50% of compensation amount awarded. The respondents 3 and 4 are liable to pay the entire compensation amount awarded to the first respondent.

8. In the result, with above modifications, this Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

22.08.2017

Index : Yes/No
rgr

V.M.VELUMANI, J.

rgr

To

The Subordinate Judge,
Motor Accident Claims Tribunal,
Athur.



C.R.P.(NPD)No.3916 of 2009

WEB COPY

22.08.2017