

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANIC.R.P.(NPD)No.588 of 2009
& M.P.No.1 of 2009

M/s.Royal Sundaram Alliance
Insurance Company Limited,
No.46, Whites Road, Chennai – 14
Rep.by its divisional Manager

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Petitioner

Vs.

1.G.Kurulmaran @ Kuralanadan
2.The Managing Director,
Tamilnadu State Transport
Corporation Limitd,
Rangapuram, Vellore – 9.
2.R.Selvakumar
[R-3 set exparte in the lower court]

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Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the
Constitution of India, against the judgment and decree dated
13.12.2007 made in MCOP No.115 of 2004 on the file of the Motor
Accident Claims Tribunal (Chief Judicial Magistrate), Vellore District.

For Petitioners : Mrs.Sreevidhya

For Respondents : Not ready in notice
regarding R1
Mr.N.Anand for R2
R3 – Given up

ORDER

This Civil Revision Petition has been filed against the judgment and decree dated 13.12.2007 made in MCOP No.115 of 2004 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Vellore District.

2. The petitioner is the third respondent, the first respondent is the petitioner and the respondents 2 and 3 are the respondents 1 & 2 in MCOP No.115 of 2004 filed before the Motor Accident Claims Tribunal, Vellore. The first respondent / claimant filed the above said MCOP claiming a sum of Rs.2,50,000/- as compensation for the injuries sustained by him in the accident occurred on 23.02.2004. According to the first respondent, on 23.02.2004, while he was travelling as a cleaner in a lorry bearing Regn.No.TN23 D 0005 belonging to the third respondent, insured with the petitioner, a bus bearing Regn.No.TN23 N 1436 belonging to the second respondent driven by its driver in a rash and negligent manner dashed against the lorry and caused the accident. FIR was registered against the driver of the bus belonging to the second respondent/transport corporation and hence the first respondent claimed compensation against the petitioner and respondents 2 & 3. The second

respondent filed counter denying the manner in which the alleged accident occurred. The accident did not take place due to the rash and negligent driving by the driver of the bus belonging to the second respondent and the accident occurred only due to the rash and negligent driving by the driver of the lorry.

4. The petitioner filed separate counter and submitted that no averment has been made against the petitioner in the claim petition. The first respondent in the claim petition has stated that the accident occurred only due to the rash and negligent driving by the driver of the bus belonging to the second respondent Corporation. FIR also was registered only against the driver of the Transport Corporation bus. Before the Tribunal, the first respondent examined himself as PW1 and marked six documents as Exs.P1 to P6. The conductor of the Transport Corporation bus was examined as RW1. The petitioner did not let in any oral or documentary evidence. The Tribunal, considering the pleadings, evidences of PW1 & RW1, held that the drivers of both the vehicles are responsible for the accident. Since the lorry of the third respondent was insured with the petitioner, the Tribunal directed the petitioner and the respondents 2 & 3 to jointly and individually pay a sum of Rs.6,000/-, i.e. Rs.3,000/- payable by the 2nd respondent and

Rs.3,000/- payable by the petitioner and third respondent, alongwith proportionate interest and costs.

5. Against the said order dated 13.12.2007 passed in MCOP No.115 of 2004, the present Civil Revision Petition has been filed.

6. Heard the learned counsel for the petitioner as well the second respondent.

7. The contention of the learned counsel for the petitioner is that the first respondent has stated that the accident occurred only due to the rash and negligent driving by the driver of the second respondent. The Tribunal, without appreciating the claim petition as well as the evidence of PW1 and FIR registered against the driver of the bus belonging to the second respondent, erroneously held that the driver of the lorry insured with the petitioner is also responsible for the accident.

8. From the materials available on record, it is seen that the accident took place in the highways involving two heavy vehicles. The first respondent who was travelling in the lorry has stated that the accident took place only due to the rash and negligent driving

by the driver of the bus belonging to the second respondent transport corporation and the FIR was also registered only against the driver of the bus. The learned Judge has taken note of the fact that after registering FIR, no final report was filed. The conductor of the bus was examined as RW1 who has deposed that the driver of the lorry overtook another lorry and came and dashed against the bus and thereby caused the accident. No independent witness has been examined to disprove the evidence of RW1 that the accident took place in the highway involving two heavy vehicles. In the present case, PW1 has stated that only due to the rash and negligent driving by the driver of the bus, the accident has occurred while RW1, has stated that the accident occurred only due to the rash and negligent driving by the driver of the lorry.

9. The learned Judge, considering the evidences of PW1 & RW1 has rightly held that both the drivers of the vehicles are responsible for the accident. In the said circumstances, I do not find any illegality or irregularity in the order passed by the Tribunal warranting interference by this Court.

10. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. It

is represented by the learned counsel appearing for the petitioner that at the time of the admission, they have deposited 25% of the amount awarded by the Tribunal together with proportionate interest and costs. Therefore, the petitioner is directed to deposit the balance 75% of the award amount together with proportionate interest and cost, within a period of two (2) weeks from the date of receipt of a copy of this order, if not already deposited. On such deposit, the first respondent/claimant is permitted to withdraw the entire award amount, after adjusting the amount already withdrawn, if any.

26.07.2017

Index : Yes/No
rgr

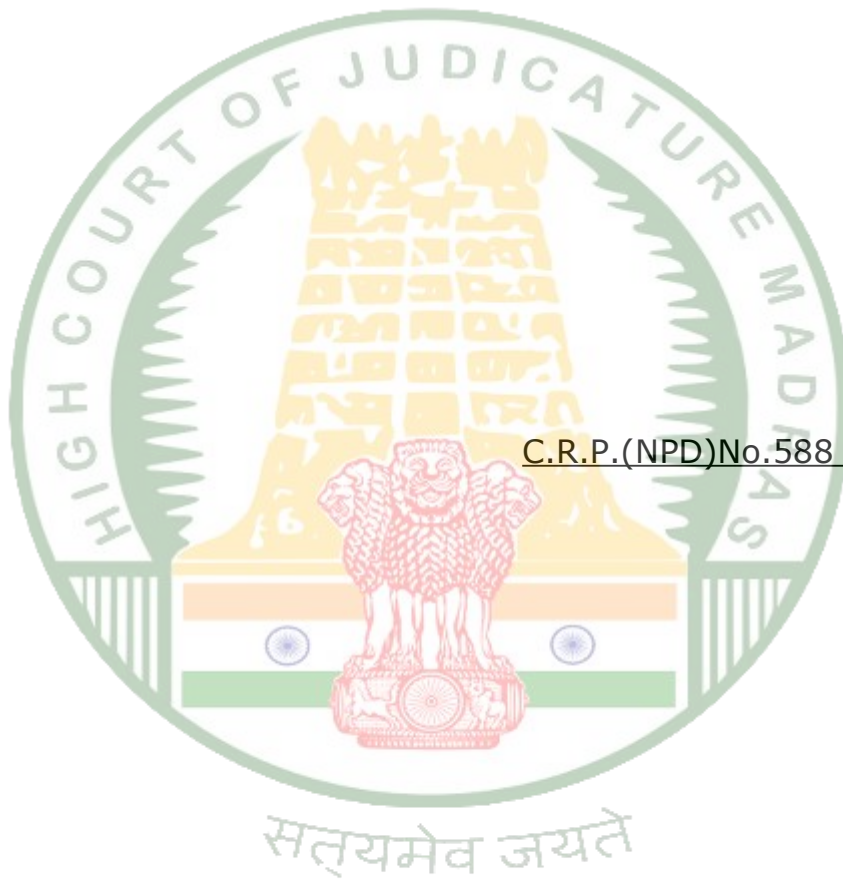
To

The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Vellore District.

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V.M.VELUMANI, J.

rgr



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