

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.4275 of 2010
& M.P.No.1 of 2010

N.Prabhuraj

.. Petitioner

Vs.

1.Josephine

2.National Insurance Company
Represented by its Assistant Manager
having office at No.751
Anna salai, III party Claim Department
III floor, Chennai-600 002.

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decretal order dated 28.10.2010 made in M.P.No.1972 of 2010 in M.C.O.P.No.1239 of 2001 on the file of the III Small Causes Court, Chennai.

For Petitioner

: Mr.G.Krishnakumar

For R1

: No Appearance

For R2

: Mr.S.Arunkumar

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ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 28.10.2010 made in M.P.No.1972 of 2010 in M.C.O.P.No.1239 of 2001 on the file of the III Small Causes Court, Chennai.

2. The petitioner is claimant, first respondent is the owner of the vehicle and second respondent is the insurance company of the vehicle involved in the accident. The petitioner filed M.C.O.P.No.1239 of 2001 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai, claiming compensation of Rs.3,00,000/- for the injuries sustained by him in the accident that occurred on 16.05.2000. In the claim petition, both the respondents entered appearance, filed counter and were contesting the claim petition. The said M.C.O.P. was taken up before the Lok Adalat held on 24.04.2010. Notice was issued to all the parties concerned. First respondent was served notice for the hearing on 24.04.2010. On that date, first respondent/owner of the vehicle did not appear. Petitioner and second respondent compromised the matter and second respondent agreed to pay a sum of Rs.1,55,000/- against the claim of Rs.3,00,000/-. In view of the compromise between the

petitioner and second respondent, Lok Adalat passed an award dated 24.04.2010 directing the second respondent/insurance company to pay a sum of Rs.1,55,000/- towards full quit of the claim to the petitioner. Second respondent deposited the said award amount into Court.

3. Challenging the said award dated 24.04.2010 made in M.C.O.P.No.1239 of 2001, first respondent filed M.P.No.1972 of 2010 under Section 151 C.P.C. to stop issuing cheque to the petitioner and conduct trial on merits.

4. According to the first respondent, her vehicle was not an offending vehicle. The petitioner has filed two different claim petitions through two different advocates. To prove this contention, first respondent must be given an opportunity to putforth her case.

5. The petitioner/claimant filed counter and opposed the said application. Second respondent/insurance company also filed counter.

6. The Tribunal considering the materials on record and judgment relied on by the first respondent, allowed the application filed by the first respondent.

7. Against the said order dated 28.10.2010 made in M.P.No.1972 of 2010, the present Civil Revision Petition is filed by the petitioner/claimant.

8. The learned counsel for the petitioner submitted that an award of Lok Adalat can be challenged only by initiating proceedings under Article 226 or 227 of the Constitution of India. Award of the Lok Adalat is final, it is binding on all the parties and no appeal lies against the said award. The Tribunal failed to see that the matter was referred to Lok Adalat on the application filed by the petitioner under Section 19 of the Legal Services Authorities Act and it is not correct to state that no notice was served on the first respondent.

9. Though notice was served on the first respondent by effecting publication and her name is printed in the cause list, there is no representation on behalf of the first respondent either in person or through counsel.

10. The learned counsel for the second respondent submitted that second respondent/insurance company will abide by the order passed by this Court.

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

12. From the materials available on record, it is seen that claim petition filed by the petitioner was referred to Lok Adalat and the first respondent even after receiving notice did not appear before the Lok Adalat on that date. The petitioner and second respondent arrived at a compromise before Lok Adalat and an award was passed on 24.10.2010. Based on the said award, second respondent also deposited the amount into Court. At this stage, first respondent has filed application for not issuing the cheque to the petitioner and to conduct trial. By this application, first respondent is seeking to set aside the award of the Lok Adalat. The contention of the first respondent before the Tribunal is that her vehicle is not offending vehicle and only the motor cycle owned by the petitioner is offending vehicle. The petitioner and second respondent obtained award by colluding together.

13. First respondent cannot seek the relief on the ground raised by her. The Tribunal by allowing such petition has in fact set aside the award of the Lok Adalat.

14. It is well settled in the judgment reported in **2017 (5) CTC 775 (Bharvagi Constructions and another v. Kothakapu Muthyam Reddy and others)**, award of the Lok Adalat can be challenged only by initiating proceedings under Article 226 or 227 of the Constitution of India and award can be challenged only on limited grounds. This issue was considered by me vide order dated 30.10.2017 in C.R.P.(NPD)No.4078 of 2013 and award of the Lok Adalat was set aside. The reasoning in the said order and the judgment referred to above are squarely applicable to the facts and circumstances of the present case. In view of the well settled judgment, the Tribunal has committed an error and irregularity in allowing the petition filed by the first respondent. Hence, the order dated 28.10.2010 made in M.P.No.1972 of 2010 in M.C.O.P.No.1239 of 2001 is liable to be set aside and it is hereby set aside.

15. In the result, this Civil Revision Petition is allowed. The petitioner/claimant is permitted to withdraw the award amount, if he

has not already withdrawn. No costs. Consequently, connected Miscellaneous Petition is closed.

06.12.2017

Index : Yes/No
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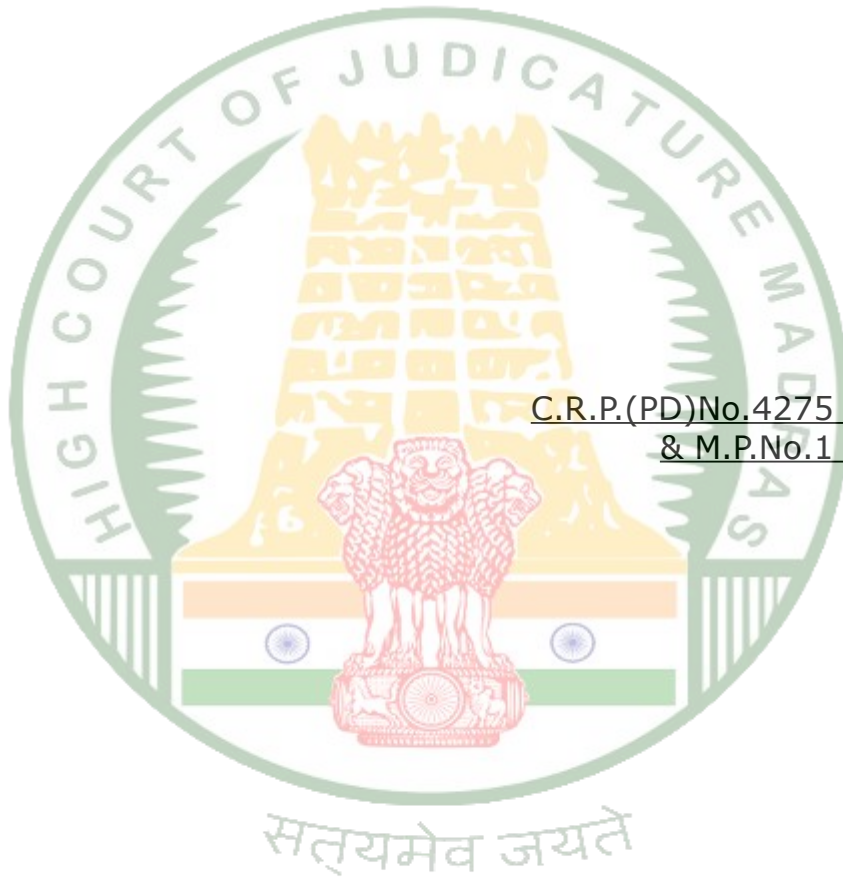
To
III Judge, Small Causes Court, Chennai.



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V.M.VELUMANI, J.

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