

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.08.2017**

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.PD.No.811 of 2010
& M.P.No.1 of 2010

1.Gowri
 W/o. Late Ranganthan
 Shivasankari (Died)
 2.Kamatchi
 3.Minor Muthulakshmi
 4.Minor Malathi
 D/o. Late Ranganthan
 Minors 3 and 4 rep.by first petitioner Gowri .. Petitioners

Vs.

1.S.Lawerence(Deleted)
 2.The Divisional Manager,
 The United India Insurance Co.Ltd.,
 Vellore – 4.
 3.G.Deenadayalan

First respondent set Exparte in lower Court. .. Respondents

PRAYER: Civil Revision Petition filed under the article 227 of the Constitution of India, to set aside the order dated 20.11.2009 made in I.A.No.1327 of 2009 in M.C.O.P.No.1362 of 2002 on the file of the learned District Judge, Thiruvannamalai.

For Petitioner	: Mr.G.Rajan
For R1	: Died
For R2	: M/s.R.Sreevidhya
For R3	: Batta due

ORDER

This Civil Revision Petition has been filed to set aside the order dated 20.11.2009 made in I.A.No.1327 of 2009 in M.C.O.P.No.1362 of 2002 on the file of District Judge, Thiruvannamalai.

2. The petitioners are the claimants and respondents 1 and 2 are the respondents in M.C.O.P.No.1362 of 2002 on the file of the Chief Judicial Magistrate Court at Tiruvannamalai, Motor Accident Claim Tribunal. The petitioners filed the said claim petition, claiming a sum of Rs.7,50,000/- (Rupees Seventy lakhs fifty thousand only) as compensation for the death of one Ranganthan, who died in the accident that occurred on 28.03.2002.

3. According to the petitioners, in the claim petition, they have stated that the deceased Ranganthan travelled in the van (TN-22-J-2670) as owner of the goods . After conclusion of the evidence, when the M.C.O.P was posted for arguments, the petitioners filed an application in I.A.No.1327 of 2002 for amendment of the claim petition to the effect, that the deceased

Ranganthan travelled in the van as a coolie instead of owner of the goods. Due to the typographical error, it has been stated that deceased Ranganthan travelled as a owner of the goods and prayed for amendment. The second respondent/ the United India Insurance Co. Ltd., has filed counter and opposed the said application on the ground that, if the amendment is allowed, it will change the basic character of the claim petition itself and the petitioners have come out with the amendment at belated stage.

4. The learned District Judge, Tiruvannamalai, dismissed the I.A.No.1327 of 2002 in M.C.O.P.No.1362 of 2002 filed for amendment, holding that the amendment sought for changes the entire character of the claim petition.

5. Against the said order of dismissal dated 20.11.2009, made in I.A.No.1327 of 2002 in M.C.O.P.No.1362 of 2002, the present civil revision petition has been filed by the petitioners.

6. Heard M/s.R.Sreevidhya, the learned counsel appearing for the second respondent, and Mr.G.Rajan, the learned counsel appearing for the petitioners and perused the materials available on record.

7. The petitioners have come out with the present application for the amendment, on the ground that due to the typographical error, it has been stated that the deceased Ranganthan travelled as owner of the goods. While, the fact is that he travelled as a coolie in the van. Considering the averments made in the affidavit that deceased Ranganthan was an Mason and when he did not get work as Mason, he used to work as a coolie while, on that day of accident he travelled as a coolie in the van, the order of the learned Judge is set aside, holding that the statements made by the petitioners in the claim petition that deceased Ranganthan travelled as a owner of the goods is a typographical mistake. For the above said reason, this Civil Revision Petition is allowed, setting aside the order passed in I.A.No.1327 of 2002 in M.C.O.P.No.1362 of 2002.

8. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

9. The learned District Judge, Thiruvannamalai, is directed to dispose the M.C.O.P.No1362 of 2002 within a period of **two months**, from the date of receipt of a copy of this order.

Index: Yes/No
klt

10.08.2017

To

1.The District Judge,
Thiruvannamalai.

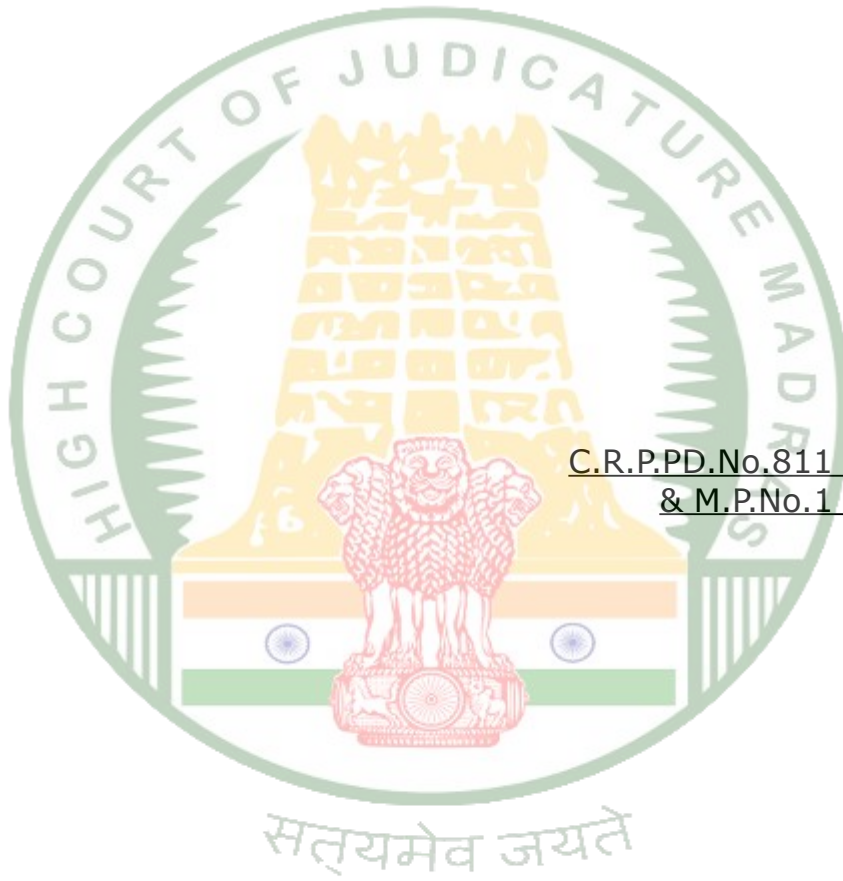
2.The Divisional Manager,
The United India Insurance Co.Ltd.,
Vellore – 4.



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V.M.VELUMANI, J.

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