

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)Nos.990 to 994 of 2010
and M.P.Nos.1 to 1 of 2010

The United India Insurance
Company Limited
Katpadi road, Vellore District.

.. Petitioner in
all the CRPs.

Vs.

1.B.Dhanapal

.. 1st Respondent in
C.R.P.No.990 of 2010

1. S.Samudi

.. 1st Respondent in
C.R.P.No.991 of 2010

1. M.Ramu

.. 1st Respondent in
C.R.P.No.992 of 2010

1. Venkatesan

.. 1st Respondent in
C.R.P.No.993 of 2010

1. Thirupathy

.. 1st Respondent in
C.R.P.No.994 of 2010

2.D.Kumar

3.J.Thangavel Achari

.. 2nd and 3rd Respondents
in all the CRPs.

(Respondents 2 and 3 are set
exparte in the lower Court)

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, against the judgment and decree dated 12.01.2007 made in MACT O.P.Nos.568, 570, 571, 572 and 666 of 2002 on the file of the Motor Accident Claims Tribunal (Additional District Judge) Fast Track Court, Tirupattur at Vellore District.

For Petitioner : Mr.Arun Kumar
For R1 : No appearance
For R2 and R3 : Exparte in lower Court

COMMON ORDER

The Civil Revision Petitions have been filed against the judgment and decree dated 12.01.2007 made in MACT O.P.Nos.568, 570, 571, 572 and 666 of 2002 on the file of the Motor Accident Claims Tribunal (Additional District Judge) Fast Track Court, Tirupattur at Vellore District.

2. The petitioner is third respondent, first respondents in all the civil revision petitions are claimants, respondents 2 and 3 are the respondents 1 and 2 in the MACT O.P.Nos.568, 570, 571, 572 and 666 of 2002 on the file of the Motor Accident Claims Tribunal

(Additional District Judge) Fast Track Court, Tirupattur at Vellore District. The first respondents in C.R.P.Nos.990, 992 to 994 of 2000 filed claim petitions claiming a sum of Rs.50,000/- each and the first respondent in C.R.P.No.991 of 2000 filed claim petition claiming a sum of Rs.1,00,000/- as compensation, for the injuries sustained by them in the accident that was occurred on 24.03.1996.

3. According to the first respondents, they along with others were travelling in a mini lorry bearing Registration No.TN-45-Y-1626 from Salem to Tirupattur belonging to the third respondent driving by the second respondent. Due to rash and negligent driving by the second respondent, accident occurred, due to which, the first respondents and others travelled in the lorry sustained injuries and some others died. They took treatment and F.I.R. was registered against the second respondent. At the time of accident, vehicle was insured with the petitioner. Therefore, the first respondents filed claim petitions against the petitioner and respondents 2 & 3. The respondents 2 and 3 remained exparte in the Tribunal. The petitioner filed counter and denied various averments made in the claim petitions.

4. According to the petitioner, the first respondents and others travelled contrary to the permit and policy condition. In view of the same, the petitioner is not liable to pay any compensation.

5. Before the Tribunal, the first respondents, other claimants and Doctor were examined as P.W.1 to P.W.19. All the claimants marked 31 documents as Exs.P1 to P31. The driver was examined as R.W.1. The petitioner marked two documents as Exs.R1 and R2.

6. The Tribunal considering the pleadings and oral & documentary evidence, came to the conclusion that the accident occurred only due to rash and negligent driving by the driver of the mini lorry, also considering the evidence of R.W.1 and nature of the injuries sustained by the claimants, directed the petitioner to pay the compensation at the first instance and recover the same from the third respondent.

7. Against the common judgment and decree dated 12.01.2007 made in MACT O.P.Nos.568, 570, 571, 572 and 666 of 2002, the present civil revision petitions are filed by the

petitioner/Insurance Company.

8. Heard the learned counsel for the petitioner and perused the materials available on record.

9. From the materials on record, it is seen that R.W.1 admitted that the third respondent has taken comprehensive policy covering driver, cleaner, four load men, third party claimant and owner of the goods travelled in the lorry. The respondents 2 and 3/driver and owner of the lorry remained exparte. In view of the fact that the petitioner has not produced the policy, the learned Judge considering the above facts, directed the petitioner to pay the compensation at the first instance and recover the same from the third respondent.

10. It is well settled that the Motor Vehicle Act is a beneficial legislation and claimants should not be deprived of on technical grounds. In order to grant benefit to the claimants with regard to their rightful compensation, the Hon'ble Apex Court evolved a policy of pay and recovery. This principle is squarely applicable to the facts and circumstances of the present case.

11. The first respondents in all the civil revision petitions were

awarded only a meagre sum of Rs.5,500/- each as compensation. Considering all the above facts, the Civil Revision Petitions are devoid of merits.

12. In the result, the Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

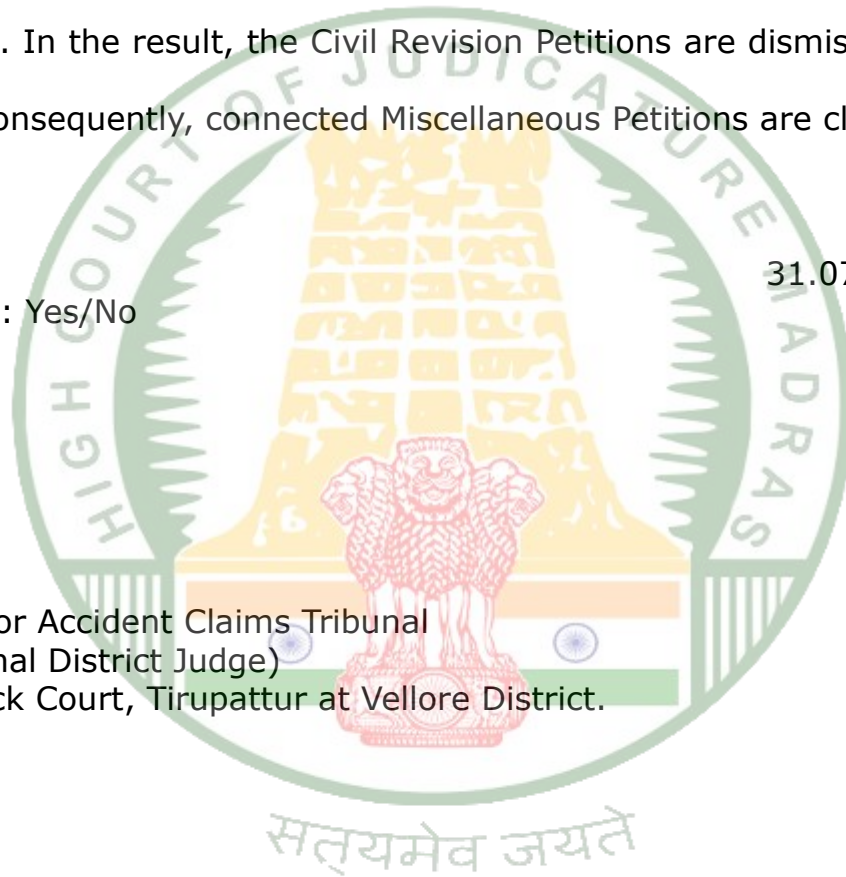
31.07.2017

Index : Yes/No

kj

To

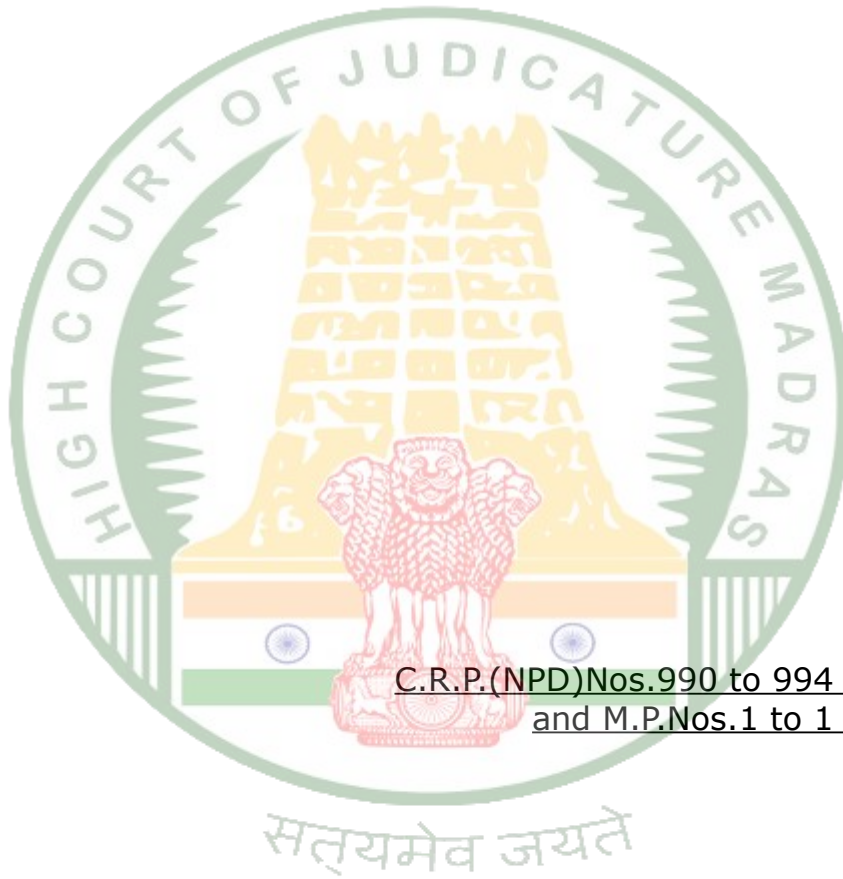
The Motor Accident Claims Tribunal
(Additional District Judge)
Fast Track Court, Tirupattur at Vellore District.



WEB COPY

V.M.VELUMANI, J.

kj



C.R.P.(NPD)Nos.990 to 994 of 2010
and M.P.Nos.1 to 1 of 2010

WEB COPY

31.07.2017