

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31.07.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

**CRP(PD)No.4385 of 2013
and
M.P.No.1 of 2013**

The Managing Director,
Karnataka State Road Transport Corporation,
Chickballapur Division, Chickballapur,
Bangalore – 560 027.
Karnataka State.

.. Petitioner

Vs.

1.Manjula

2.Minor Rogit

3.Minor Roshini

4.Kamalammal

4.Kannayeram

5.Depot Manager,
Tamil Nadu State Transport Corporation,
Tirupattur.

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the
Constitution of India, against the Fair and decreetal order dated

24.11.2012 passed in I.A.No.1457 of 2012 in MCOP.No.254 of 2011, on the file of the Principal District Judge (Motor Accident Claims Tribunal) at Dharmapuri.

For Petitioner : Mr.T.Thiyagarajan

For Respondents : Mr.M.Selvam (for R1 to R5)

No Appearance (for R6)

ORDER

The petitioner has filed this Civil Revision Petition to set aside the fair and decretal order dated 24.11.2012 passed in I.A.No.1457 of 2012 in M.C.O.P.No.254 of 2011 on the file of the Principal District Judge (Motor Accident Claims Tribunal), Dharmapuri by allowing the Civil Revision.

2.The case of the revision petitioner is that he is the Managing Director of Karnataka State Road Transport Corporation and their bus bearing KSRTC Bus No.KA-40/F-0136 met with an accident on 30.10.2010 at Chengam, in Thiruvannamalai District, Tamil Nadu. The said accident was due to the rash and negligent driving of a Tamil Nadu State Transport Corporation bus bearing No.TN.29-N-1726. However, the FIR came to be registered against the revision petitioner

corporation's bus, as if it was liable for the above accident. Whereas the claim petition in M.A.C.T.O.P.No.254 of 2011 before the Motor Accident Claims Tribunal (Principal District Judge), Dharmapuri, came to be filed by the claimants as against the revision petitioner herein, but without impleading the TNSTC bus bearing registration No.TN.29-N-1726. They are the necessary parties, since the accident incurred due to the negligent drive of the TNSTC bus. Therefore the revision petitioner filed an interlocutory application in I.A.No.1457 of 2012 under Order 1 Rule 10 C.P.C to implead the 6th respondent/proposed party in the above Motor Accident Claim Petition. However, the learned trial Judge without proper appreciation of the fact that the revision petitioner corporation was not responsible for the accident, but erroneously dismissed the revision petitioner's application by order dated 24.11.2012 by holding that in the FIR it is stated that the KSRTC bus has dashed against TNSTC bus and caused injuries to the persons travelling in TNSTC bus. The said order is impugned herein.

3.I heard Mr.T.Thiyagarajan, learned counsel appearing for the revision petitioner and Mr.M.Selvam, learned counsel appearing for the respondents 1 to 5 and there was no representation on behalf of the 6th respondent and perused the entire records.

4.The learned counsel for the revision petitioner submitted that the learned trial judge has committed an error in concluding that the proposed party / 6th respondent herein is not a necessary party even though a complaint has been registered stating that both the TNSTC and KSRTC bus dashed against each other causing injuries to the passengers and hence the revision petitioner is not responsible for the accident and hence it cannot be held liable to compensate the victims, whereas the compensation should be made only by the TNSTC Corporation for their fault. Further the Learned trial Judge erred in having bare reliance upon the FIR. The said FIR against the petitioner is false and the same alone is not enough to fasten liability. Therefore the 6th respondent herein is a just and necessary party for proper adjudication of the claim petition.

5.Per contra, the learned standing counsel for the 6th respondent would submit that their TNSTC bus is not responsible for the accident and the same can be ascertained on a plain reading of the FIR stating that the KSRTC bus has dashed against the TNSTC bus. Only on appreciation of the very fact, the learned trial judge has rightly dismissed the revision petitioner's application in I.A.No.1427 of 2012.

6. On perusal of the case records and the impugned order it is seen that the revision petitioner's application under Order 1 Rule 10 C.P.C came to be dismissed by the learned trial judge on the sole ground that it is stated in the FIR that the KSRTC bus has dashed against the TNSTC / 6th respondent's bus, therefore the 6th respondent is not a necessary party.

7. It is needless to say that under Criminal Law mere registration of a FIR would not hold any person guilty of such offence and further FIR is not an encyclopedia, whereas only at the conclusion of fair trial a person would be held guilty or otherwise could be decided. Therefore this Court is of the opinion that mere registering a FIR against the revision petitioner alone is not enough to fasten liability. Further in the case on hand admittedly the injuries were caused due to the dashing of buses belonging to both the revision petitioner and the 6th respondent herein. It is also seen that in so far as the claim petitions filed by some other claimants / injured in the same accident, the proposed party / 6th respondent herein is being arrayed as a respondent therein.

8. Therefore this Court is not inclined to accept the argument of the learned counsel for the 6th respondent that they need not be impleaded as party respondent in the said claim petition, since on the face of the FIR it is stated that the bus belonging to the revision petitioner has dashed the bus of the 6th respondent. Only after a full-fledged trial and on proper appreciation of the oral and documentary evidence such liability can be decided. Merely because the 6th respondent herein is ordered to be impleaded as one of the respondent in the claim petition, it does not mean that they are also liable to pay compensation and the said issue will be decided only after conducting full-fledged trial. It is noteworthy that any such liability that would be fixed while passing the award would not bind the proposed party unless and until they are made parties to the proceedings for proper adjudication.

9. In view of the foregoing reasons, I am of the considered view that the presence of TNSTC is just and necessary to decide the issue involved in the above claim petition. Hence the order of the trial Court is liable to be set aside and accordingly set aside.

10.In the result:

(a) this Civil Revision Petition is allowed by setting aside the order passed in I.A.No.1457 of 2012 in MCOP.No.254 of 2011, dated 24.11.2012, on the file of the learned Principal District Judge (Motor Accident Claims Tribunal), Dharmapuri;

(b) the impleading respondent is directed to file its counter in MACTOP No.254 of 2011 within a period of six weeks from the date of receipt of a copy of this order;

(c) on filing the counter within the time stipulated by this Court, the trial Court namely (Principal District Judge / Motor Accident Claims Tribunal) at Dharmapuri, is directed to dispose the case within a period of four months. Both the parties are hereby directed to give their fullest co-operation for early disposal of the case. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

31.07.2017

Internet:Yes

Index:Yes

vs

To

The Principal District Judge
(Motor Accident Claims Tribunal),
Dharmapuri.

WEB COPY

M.V.MURALIDARAN, J.

VS



**Pre-Delivery order made in
CRP(PD)No.4385 of 2013
and
M.P.No.1 of 2013**

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