

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD) Nos.4210 and 4211 of 2012
and M.P.No.1 of 2012

M/s ICICI Lombard General Insurance Company Ltd.,
Swarnambigai Plaza
1st floor
Omalur Main Road
Near new bus stand
Salem -9.

.. Petitioner in
both C.R.Ps'

(Casue title accepted vide order of
Court dated 12.09.2012 made in
M.P.No.1 of 2012 in C.R.P.SR.Nos.69147 and
69104 of 2012 respectively)

Vs.

- 1.Sachithananthan
- 2.Vennila
- 3.Minor Gowsalya
rep by next friend Guardian
Mother Vennila
- 4.Kanniyammal

.. Respondents
in both C.R.Ps'

COMMON PRAYER: Civil Revision Petitions filed under Article 227
of Constitution of India against the fair and decretal orders dated
24.08.2011 and 04.08.2011 made in I.A.No.1444 of 2011
respectively in M.C.O.P.No.905 of 2008 respectively on the file of
the Principal District Judge, Salem.

For Petitioner : M/s.R.Sree Vidhya

For R1 to R4 : Not ready in notice

COMMON ORDER

These Civil Revision Petitions are filed against the fair and decretal orders dated 24.08.2011 and 04.08.2011 made in I.A.No.1444 of 2011 in M.C.O.P.No.905 of 2008 respectively on the file of the Principal District Judge, Salem.

2.The issues and the parties involved in both the Civil Revision Petitions are one and the same. Therefore, disposed of by this common order.

3.The petitioner is the second respondent, first respondent is the first respondent and the respondents 2 to 4 are the petitioners in M.C.O.P.No.905 of 2008. The first respondent is owner of the vehicle involved in the accident and respondents 2 to 4 are the claimants. The first respondent remained exparte in the M.C.O.P. The petitioner/Insurance Company contested the claim petition. The Tribunal, held that the first respondent alone is liable to pay the compensation to the respondents 2 to 4. The first

respondent filed I.A.No.1444 of 2011 to set aside the said order dated 16.11.2010. By the order dated 04.08.2011, the Principal District Judge, Salem, allowed the application on condition that the first respondent pays a cost of Rs.500/- to the respondents 2 to 4 on or before 23.08.2011 and posted the I.A on 24.08.2011. On 24.08.2011, the first respondent filed a memo stating that he has paid the cost and complied the conditional order. By the order dated 24.08.2011, the learned Judge set aside the award. Against the said order dated 04.08.2011 and 24.08.2011, the second respondent/Insurance Company has come out with the present two Civil Revision Petitions.

4. According to the learned counsel for the petitioner, the award dated 16.11.2010 is not an ex parte award and it was passed after contest. Without impleading and ordering notice to the petitioner, award was set aside. The respondents colluded together and filed the application to set aside the award.

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

6.From the materials available on record, it is seen that the first respondent did not contest the M.C.O.P. He was set exparte. As far as the first respondent is concerned, the award passed against him is an exparte award. In such a circumstances, the first respondent must be given an opportunity to put forth his case on merits and contest M.C.O.P in view of the fact that award is passed only against the first respondent. For the above reasons, both the Civil Revision Petitions are liable to be dismissed in order to give an opportunity to the first respondent/owner of the vehicle to put forth his case on merits.

7.In the result, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

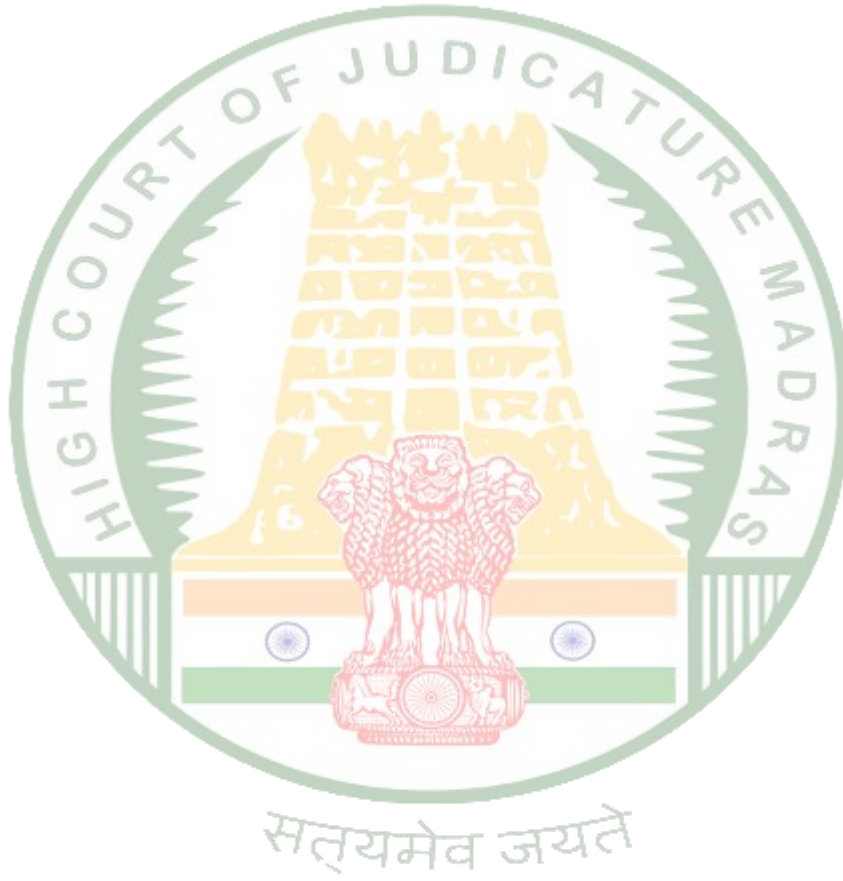
Index: Yes/No
gsa

06.11.2017

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To

The Principal District Judge,
Salem.



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V.M.VELUMANI,J.

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