

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2019

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRP NPD No.1736 of 2006 and
M.P.No.1 of 2006

New India Assurance Company Limited,
branch Office, 793, Jawahar Bazar,
Karur 639 001. Petitioner

Vs.

1. Kalliammal
2. Muthuswamy
3. M/s Sekar Garments Respondents

Prayer Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 09.12.2005 passed by the Additional District Judge, Motor Accidents Claims Tribunal, Fast Track Court No.5, Coimbatore at Tiruppur in MCOP No.946 of 2001.

For Revision Petitioner : Mr.J.Michael Visuvasan

For 1st respondent : No appearance

O R D E R

This revision petition has been filed, challenging the award passed by the Additional District Judge, Motor Accidents Claims Tribunal, Fast Track Court No.5, Coimbatore at Tiruppur in MCOP No.946 of 2001.

2. The revision petitioner, the insurance company is the 3rd respondent in the claim petition in MCOP No.946 of 2001. The case of the claimant is that on 29.04.2001, while she was traveling as a load woman in a tempo van bearing registration No.TN72 X 4576, the driver of the tempo van drove the vehicle rashly and negligently, as a result of which, she sustained grievous injuries and in respect of which a case in Crime No.97 of 2001 was also registered. The contention of the claimant is that she was earning a sum of Rs.3,000/- per month and due to

the injury, she incurred loss of income and hence, she filed a claim petition claiming a sum of Rs.1,50,000/- as compensation.

3. The revision petitioner, the insurance company filed counter affidavit, admitting the accident. However, it is their contention that the vehicle was carrying more persons, other than the permitted capacity and hence the claim petition has to be dismissed against the insurance company.

4. Before the trial court, on the side of the petitioner, the petitioner was examined as PW1 and Ex.P1 to Ex.P3 were marked. On the side of the respondents Ex.R1 was marked.

5. After analysing the evidence on record, the trial court found that the driver of the vehicle was rash and negligent in driving of the vehicle and also held that the petitioner was traveling in the tempo as a load woman and hence, awarded a sum of Rs.6,000/- to the claimant as compensation for the injuries sustained by her. Against which, this revision petition has been filed.

6. The learned counsel appearing for the revision petitioner would contend that the first respondent/ claimant, who had travelled as a gratuitous passenger is not entitled to get any compensation and hence, the revision petition may be allowed.

7. I have perused the entire order passed by the trial court. The trial court, in fact, factually found that the accident was caused due to the rash and negligent driving of the driver of the vehicle, in which the first respondent travelled. Similarly the trial court has found that the contention of the insurance company that the claimant had travelled as a gratuitous passenger was not established and accepted the case of the claimant that she travelled as a load woman and awarded a sum of Rs.6,000/- as compensation for the minor injuries sustained by her. When the trial court has factually found that the claimant was entitled to get compensation for the minor injuries sustained by her, this court cannot re-appreciate the entire facts. Hence, I do not find any merits in this revision petition and hence, the order of the trial court does not warrant any interference by this court.

8. In the result,

(i) The civil revision petition is dismissed. No costs. The connected civil miscellaneous petition is closed.

(ii) The quantum of compensation awarded by the trial court is upheld. The appellant/insurance company is directed to

deposit the compensation of Rs.6,000/-, with interest at the rate of 9% p.a. from the date of claim petition till the date of deposit, less the amount, if any already deposited, within a period of 4 weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made by the appellant/ the insurance company, the claimant is entitled to withdraw the same, after following due process of law.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

mst

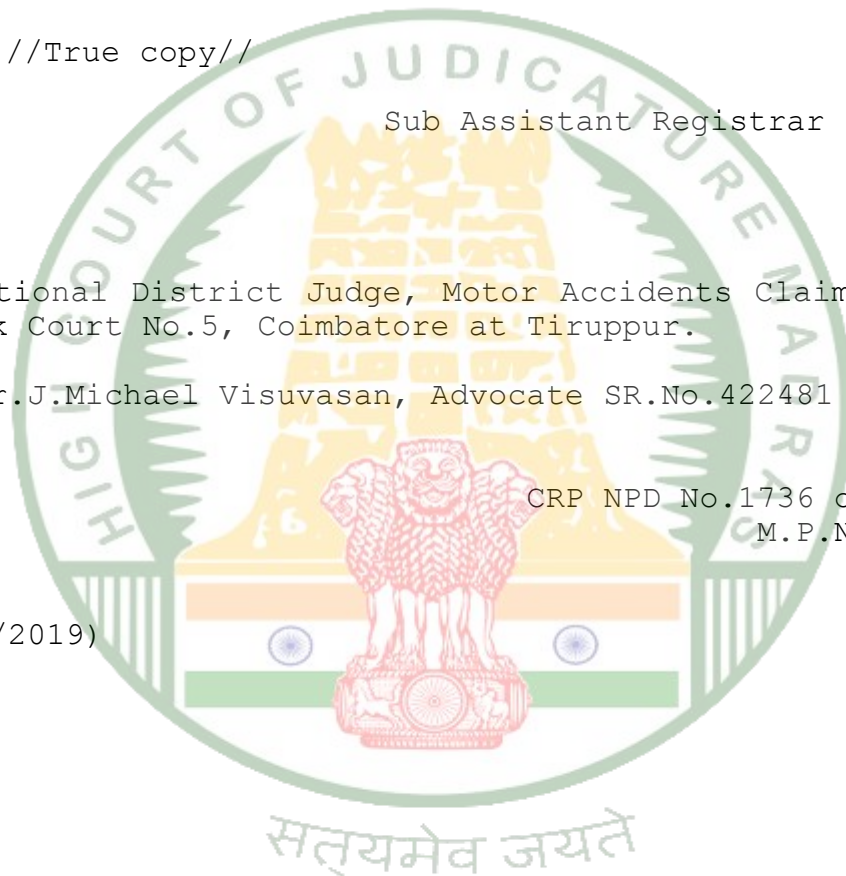
To

The Additional District Judge, Motor Accidents Claims Tribunal,
Fast Track Court No.5, Coimbatore at Tiruppur.

+1cc to Mr.J.Michael Visuvasan, Advocate SR.No.422481

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RSV(CO)
GMY(08/07/2019)



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