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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.3.2020

CORUM ;

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P.No. 473 and 3117 of 2019
C.M.P.No.3149 and 20438 of 2019

C.R.P.No.473 of 2019

The Oriental Insurance Company Ltd.
No.216/115, Oriental House,
II Floor, Pragasam Salai,
Broadway, Chennai 600 104.

...Respondent/
Petitioner/2nd Respondent

Vs.

1.Susaimery
2.Ambrose

...Respondents 1 & 2/
Respondents 1 & 2/Petitioner
...Respondent 3/Respondent /
1st Respondent

4.Reliance General Insurance Co. Ltd.
No.6, Haddows Road, Chennai - 6.

...Respondents 4/Respondent4/
Proposed party

(3rd Respondent set exparte in the
Lower Court Hence notice is dispense with)

C.R.P.No.3117 of 2019

The Oriental Insurance Company Ltd.
No.216/115, Oriental House,
II Floor, Pragasam Salai,
Broadway, Chennai 600 104.

...Petitioner/Petitioner/
2nd Respondent

Vs.

1.C.Devika
2.K.Chandran

... Respondents 1 &2 /
Respondent1&2/Petitioner
... Respondent No.3/Respondent No3
1st Respondent

1/5



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4.Susaimerry

5.Amburose

6.Reliance General Insurance Co.Ltd.,
Chennai.

... Respondents 4 to 6/
Respondents 4 to 6/
Proposed parties

(3rd Respondent set exparte in lower court
Hence notice is dispense with)
Prayer in C.R.P.No.473 of 2019:

Civil Revision petition is filed under Section 115 of C.P.C. against the order, dated 26.11.2018 passed in M.P.No.2598 of 2018 in M.C.O.P.No.2952 of 2017 on the file of the Motor Accidents Claims Tribunal, (IV Court of Small Causes) Chennai.

Prayer in C.R.P.No.3117 of 2019:

Civil Revision petition is filed under Section 115 of C.P.C. against the order, dated 18.07.2019 passed in M.P.No.276 of 2018 in M.C.O.P.No.3787 of 2016 on the file of the Motor Accidents Claims Tribunal, (IV Court of Small Causes) Chennai.

For Petitioner in both

C.R.Ps.

: Mr.R.Sivakumar

For Respondents 1 & 2 in

: Mr.Nedunchezian for

C.R.P.No.473/2019

: Mr.D.Poovannam

For Respondents 1 & 2 in

: Mr.M.A.R.Pragash

C.R.P.No.3117/2019

For Respondent No.3

: Given up(in both CRP's

For Respondent No.4 /

: Mr.N.Vijayaraghavan for

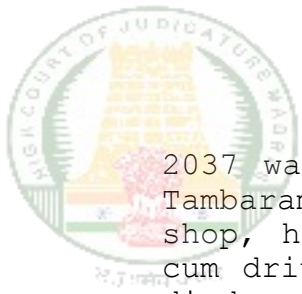
Reliance Insurance Co.

M/s.M.B.Gopalan Associates

COMMON ORDER

Both the Civil Revision petitions are arises out of the orders passed by the Court below in both applications filed to implead the Reliance General Insurance Company Ltd. and claimants in another M.C.O.P. and both the claim petitions arises out of the very same accident. Therefore, both the Civil revision petitions are disposed of by a common order.

2. The respondents 1 and 2 in both Civil revision petitions filed separate claim petition in M.C.O.P.No.2952 of 2017 and M.C.O.P.No. 3787 of 2016 respectively before the Court below stating that a Tavera Car bearing registration No.TN 22 DC



2037 was involved in the accident on 25.4.2016 at 4.45 a.m. at Tambaram to Chengalput National highways near Arun Glass Plywood shop, hit the container lorry resulting in A.Juduvadakar, owner cum driver of the car and another occupant of the Car Dayanidhi died on the spot. Therefore, legal heirs of the deceased filed the aforesaid claim petitions before the Tribunal. In the aforesaid Claim petitions, Reliance Insurance Company in which the aforesaid Car was insured by the deceased was not impleaded as party. Therefore, application in M.P.No.2598 of 2018 and M.P.No.276 of 2018 have been filed under Order 1 Rule 10 of C.P.C. before the Court below by the petitioner herein to implead Reliance General Insurance Company Ltd. as party/4th respondent and claimants in M.C.O.P.No.2952 of 2017. According to the petitioner, the accident occurred on account of the rash and negligent driving by the driver of the Car. The defence taken in the counter statement also to be determined by the Court below in the presence of other parties concerned.

3. The Division Bench of this Court in DEVAKI THIYAGARAJAN VS, AHAMED AND 8 OTHERS [2015 (4) C.T.C. 293] held as under:

'65. In this decision, the Division Bench of the Apex Court has spoken through His Lordship M.Y. Eqbal, as under:- "Section 52 of the Transfer of Property Act speaks about the doctrine of lis pendens. It is well settled that the doctrine of lis pendens is a doctrine based on the ground that it is necessary for the administration of justice that the decision of a court in a suit should be binding not only on the litigating parties but on those who derive title pendente lite. The provision of this section does not indeed annul the conveyance or the transfer otherwise, but renders it subservient to the rights of the parties to a litigation.

66. His Lordship has also observed that Order 1 Rule 10 CPC empowers the court to add any person as party at any stage of the proceedings if the person whose presence before the court is necessary or proper for effective adjudication of the issue involved in the suit. It is manifest that Order 1



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Rule 10(2) CPC gives a wider discretion to the court to meet every case or defect of a party and to proceed with a person who is either a necessary party or a proper party whose presence in the court is essential for effective determination of the issues involved in the suit.''

4. Considering the facts and circumstances of the case and the decision cited supra, no prejudice will be caused to the respondents/claimants if the aforesaid application is allowed. The proposed party Reliance General Insurance Company Ltd. set exparte before the trial Court. Therefore, the orders passed by the Court below in M.P.No.2598 of 2018 in M.C.O.P.No.2952 of 2017 and M.P.No.276 of 2018 in .M.C.O.P.No.3787 of 2016 are set aside. Accordingly, both the applications are allowed. The tribunal is directed to amend the cause title in both claim petitions and dispose of the same on or before 30th July, 2020.

5. Accordingly, both the Civil Revision petitions are allowed with the above directions. No costs. Connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

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Sub-Assistant Registrar

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To

The IV Judge, Court of Small Causes (Motor Accident Claim Tribunal)
Chennai.

2.The II Special Sub Court,
Court of Small Causes
Motor Accident Claims Tribunal
Chennai

+1 cc to Mr.R.Sivakumar Advocate sr23726

C.R.P.No. 473 and 3117 of 2019
C.M.P.No.3149 and 20438 of 2019

aa07/07/2020