

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.(PD).No.3714 of 2017

and

C.M.P.Nos. 17242 of 2017 and 11059 of 2018

The Managing Director,
Tamil Nadu State Transport (VPM) Ltd.,
Villupuram Division - III,
Kancheepuram. Petitioner

vs.

- 1.Asma Fathima
- 2.Minor Mohammed Abdul Rabi
- 3.Minor Mohammed Abdul Moisy
- 4.Mumthaj Begum

(Minor Respondents 2 and 3 are represented
by her mother and guardian 1st respondent/
Asma Fathima) Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of
Constitution of India, praying to set-aside the fair and decreetal order
passed by the Motor Accident Claim Tribunal, (2nd Additional District
Judge), Thiruvallur at Poonamallee in I.A.No.1491 of 2015 in

M.C.O.P.No.62 of 2012 dated 21.03.2016 and to allow the I.A. as prayed for.

For Petitioner : Mr.C.S.K.Sathish
Standing Counsel

For Respondents : Ms.Jayanthi
for Mr.J.Mahalingam

ORDER

This Civil Revision Petition is directed as against the fair and decreetal order dated 21.03.2016 made in I.A.No.1491 of 2015 in M.C.O.P.No.62 of 2012 on the file of the Motor Accident Claim Tribunal, (2nd Additional District Judge), Thiruvallur at Poonamallee, thereby dismissing the petition to implead the insurer of the car in which the deceased was travelled and met with an accident.

2. The petitioner is the respondent in the claim petition filed by the first to third and fifth respondents herein. The first respondent's husband and another travelled in a car bearing Registration No. TN-09-AA-2858 on 21.07.2004 at about 19.30 hrs., at Chennai - Vellore National Highway

towards Chennai. The car was going nearly Baluchetty Chathiram, the petitioner's bus driver had driven the bus by rashly and negligently. Suddenly turned opposite direction without stopping the bus at the center line, without giving any indication, crossed the highway at a rash and negligent manner and directly collided with a car and caused fatal accident. Due to which, the first respondent's husband and another sustained serious injuries and died. The respondent has filed a petition M.C.O.P.No.62 of 2012 as against the petitioner claiming compensation for a sum of Rs.1 Crore from the petitioner herein.

3. After examination of all the witnesses, the matter was posted for argument. The petitioner herein filed a petition in I.A.No.1491 of 2015 in M.C.O.P.No.62 of 2012 to implead the insurer of the car namely M/s. Bajaj Alliance Insurance Company Limited as second respondent in the claim petition. The Court below held that the petition filed to implead the insurer of the car as a party in the claim petition is not maintainable and dismissed.

4. Learned counsel for the petitioner would submit that the impleadment of the insurer of the deceased car enable to protect the interest

of the claimants and as such, the insurer of the deceased car is a necessary party to decide the claim petition. He further submitted that the claim itself is bad for non-joinder of necessary parties, when the FIR registered as against the driver of the car namely the deceased.

5. On perusal of the records, revealed that the first respondent's husband had driven the car and met with an accident with the bus owned by the petitioner herein. Though FIR was registered as against the driver of the car, eyewitness of the accident and CCTV footage were marked before the Trial Court. When the matter was posted for argument, the petitioner filed petition to implead the insurer of the car. The claimants have liberty to chose the tort-feasor for claiming compensation and as such, the petition filed only to protect themselves. The petitioner has no right to choose the party as against whom the claim petition is filed. Though the Court below has dismissed the petition for other reasons that the petition to implead the insurer of the car is not maintainable and liable to be dismissed. Therefore, this Court finds no irregularity or infirmity in the order passed by the Court below.

6. In view of the above discussion, the civil revision petition is dismissed. However, the Trial Court is directed to dispose M.C.O.P.No.62 of 2012 within a period of eight weeks from the date of receipt of a copy of this order. No Costs. Consequently, the connected civil miscellaneous petitions are closed.

09.03.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

dm

To

The Motor Accident Claim Tribunal,
(2nd Additional District Judge),
Thiruvallur at Poonamallee.

Copy to

The Managing Director,
Tamil Nadu State Transport (VPM) Ltd.,
Villupuram Division - III,
Kancheepuram.

G.K.ILANTHIRAIYAN,J.

dm



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