

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.PD.No.4016 of 2019
and
C.M.P.No.26386 of 2019

IFFCO TOKIO General Insurance Company Ltd.,
4th Floor, IFFCO BHAVAN,
No.128, Habibullah Road,
T.Nagar, Chennai-600 017. Petitioner/Petitioner/2nd Respondent

Vs

1.D.Usharani
2.K.Doss Respondents/Respondents/Petitioners

3.Ramakrishnan,S.V.
4.C.Tamilselvan Respondent/3rd Respondent/1st
Respondent

5.Shriram General Insurance Co. Ltd.,
1st Floor, Plot No.5, Ramachandran Street,
Saravana Nagar, Seevaram,
Perungudi, Chennai.
...Respondent/Respondents4&T/Proposed
party No.4 & 5

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decree dated 02.01.2019 made in M.P.No.32 of 2017 in MCOP No.5955 of 2013 on the file of the Motor Accidents Claims Tribunal cum (Special Sub Court No.2, Motor Accidents Claims Petitions) Small Causes Court, Chennai.

For Petitioner . Mr.K.Poomalai

For Respondents .. M/s.V.Mohan Choudary for
R1&R2
M/s.Bhuvana Sundari for R5

ORDER

This Civil Revision Petition has been filed questioning the order dated 02.01.2019 passed in M.P.No.32 of 2017 in MCOP No.5955 of 2013 pending on the file of the Motor Accident Claims Tribunal/ Special Sub Court II, Small Causes Court, Chennai.

2. The second respondent in MCOP No.5955 of 2013 had filed the said Miscellaneous Petition under Order 1 Rule 10 of CPC to implead two other respondents namely, owner of the lorry bearing Registration No.TN 04 J 5037 and insurer of the said lorry, namely, Shriram General Insurance Company Limited. The said application came to be dismissed necessitating to file the present revision petition.

3. The reason given in the order rejecting the said application was that the application has been filed approximately at the last stage of trial. As a matter of fact, the learned Judge appears to have gone through the required materials which are not relied upon at the stage of trial. The question as to whether the accident took place by negligence of the driver

of the lorry or not, should be determined only based on the evidence. On that one ground itself, the order has to be set aside.

4. One ground to be determined under Order 1 Rule 10 of C.P.C. is whether any order passed, would directly or indirectly affect the interest of the proposed party in MCOP No.5955 of 2013. Even if it is found that owing to parking of the lorry, the accident had occurred by the fault of driver of the lorry, the interest of the insurer, namely, Shriram General Insurance Company Ltd., would be affected. Therefore, they are necessary parties and their presence is required to put forth their contentions before the Tribunal to ensure the principles of natural justice.

5. Therefore, the order passed in M.P.No.32 of 2017 in MCOP No.5955 of 2013 is hereby set aside and the Civil Revision Petition is allowed. The Motor Accidents Claims Tribunal cum (Special Sub Court No.2,), Small Causes Court, Chennai, is directed to implead the proposed parties as fourth and fifth respondents in MCOP No.5955 of 2013 and the Tribunal is directed to proceed further with trial in MCOP No.5955 of 2013 and directed to give an opportunity for further pleading if any by the respective parties to dispose of the MCOP No.5599 of 2013

on or before 31.10.2021. No order as to costs. Consequently, the connected Civil Miscellaneous Petition is closed.

01.07.2021

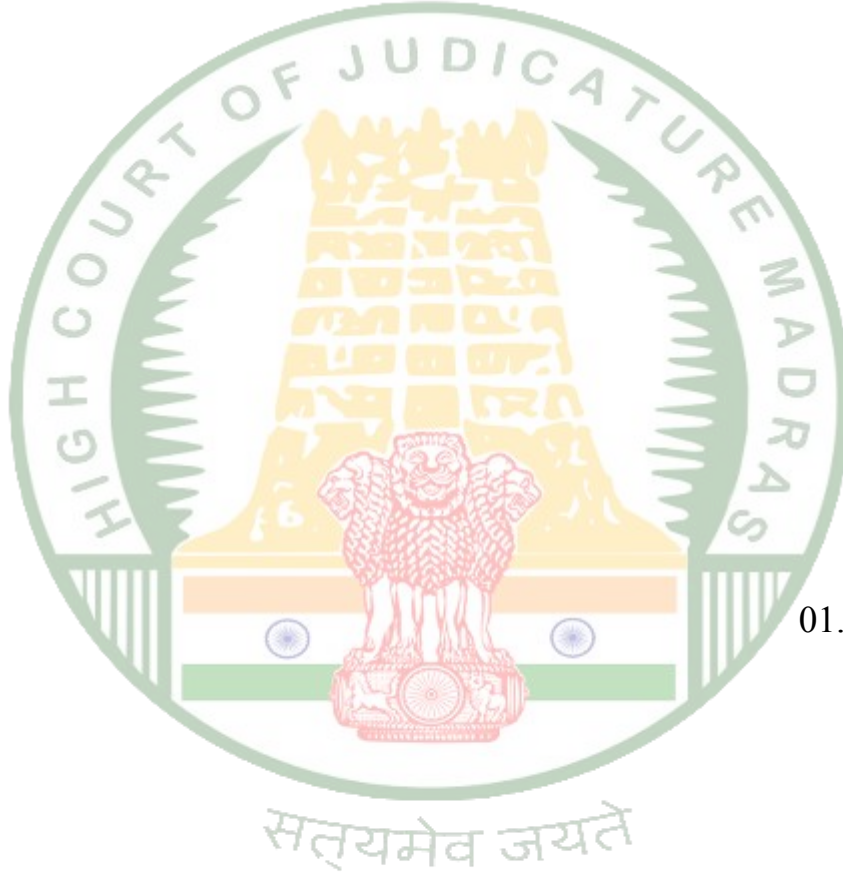
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To
The Motor Accident Claims Tribunal
cum (Special Sub Court No.2,),
Small Causes Court, Chennai,



C.V.KARTHIKEYAN,J.
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