



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2021

WEB COPY

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.(PD) (MD) No.2584 of 2012

M.Mani

.. Petitioner/Petitioner/
Petitioner

-vs-

1.S.Vijayakumar

2.The New India Assurance Company Ltd.,
Market Road,
Thanjavur.

.. Respondents/Respondents/
Respondents

Prayer :- Petition filed under Article 227 of the Constitution of India to set aside the fair order and decretal order dated 16.06.2011 passed in I.A.No.762 of 2010 in M.C.O.P.No.97 of 2010 on the file of the Motor Accident Claims Tribunal (I Additional District Judge (PCR)), Thanjavur.

For Petitioner : Mr.T.Selvan

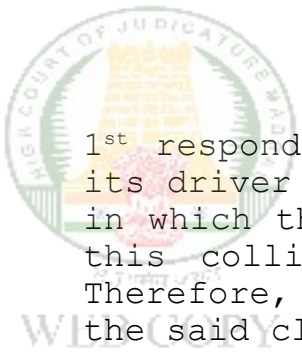
For R1 : No appearance

For R2 : Mr.Vijay Karthikeyan

ORDER

The claimant, whose application in I.A.No.762 of 2010 in M.C.O.P.No.97 of 2010 for amending the petition had been dismissed by order dated 16.06.2011, by the the Motor Accident Claims Tribunal (I Additional District Judge (PCR)), Thanjavur, is the revision petitioner before this Court.

2.It is necessary to briefly allude to the facts of the case, which have preceded the filing of the impugned application. The petitioner herein had filed a claim petition in M.C.O.P.No.97 of 2010 on the file of the Motor Accident Claims Tribunal (I Additional District Judge (PCR)), Thanjavur. In the said claim petition, the petitioner would submit that on 24.03.2009, he had been travelling along with others in a TATA ACE bearing registration No.TN 50 X 8769. When this vehicle neared the Pinnathur - Natham cut road, the



1st respondent bus bearing registration No.TN 49 K 5162, driven by its driver in a rash and negligent manner, collided with the vehicle in which the petitioner and others were travelling and by reason of this collision, he has sustained a fracture to his right hand. Therefore, claiming compensation for the injuries sustained by him, the said claim petition was filed by the petitioner herein.

3. Pending the proceedings, the petitioner came forward with an application to amend the claim petition in I.A.No.762 of 2010. The petitioner sought to amend Column No.23 of the claim petition. The petitioner sought to amend the said column by substituting that 'he was travelling in the bus bearing registration No.TN 49 K 5162 and not in the TATA ACE vehicle bearing registration No.TN 50 X 8769'. No reasons are given in the affidavit filed in support of the said application as to how the error has taken place. However, the insurance company resisted this application *inter alia* contending that the amendment was only made to overcome legal impediment and that the petitioner was only travelling in the TATA ACE goods carrier. The Tribunal below dismissed the said application by its order dated 16.06.2011 and challenging the same, the petitioner is before this Court.

4. Mr.T.Selvan, learned counsel appearing on behalf of the petitioner would submit that the First Information Report given with reference to the accident by one M.Mallika clearly shows that the petitioner was not travelling in the TATA ACE vehicle, since she has listed out all the persons, who had travelled in the said van, but has not mentioned about the petitioner and this would clearly show that there is a mistake in the narration made by the petitioner in the claim statement. He would, therefore, submit that the order should be set aside and the amendment be ordered, since even in the accident register, it has been clearly stated that the petitioner was travelling in the bus.

5. Heard the learned counsel on both sides and perused the records.

6. Reading of the First Information Report would show that in the TATA ACE van, 7 men and 2 women were travelling. However, while listing out the persons, who had been injured, the said M.Mallika has listed out the names of over 27 persons of which, 7 persons are men. M.Mallika, in the First Information Report, would also submit that she was travelling with others to Nachikulam to attend a relatives funeral ceremony, which is a very statement that has been made by the petitioner in his claim petition. Therefore, in the claim statement, the vehicle has not been mentioned by over sight and therefore, the Tribunal below has rightly dismissed the said application and I do not find any reason to set aside the same. Therefore, the order dated 16.06.2011 passed in I.A.No.762 of 2010 in M.C.O.P.No.97 of 2010 by the Motor Accident Claims Tribunal (I



Additional District Judge (PCR)), Thanjavur, is confirmed. Consequently, the Civil Revision Petition is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

abr

Note:-In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

The Motor Accident Claims Tribunal
(I Additional District Judge (PCR)),
Thanjavur.

+1 CC to M/s.B.VIJAY KARTHIKEYAN, Advocate (
SR-37798[F] dated 08/12/2021)

C.R.P. (PD) (MD) No.2584 of 2012

Dated: 08.12.2021

NSN(CO)

KB(30.12.2021) 3P 3C