



IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	28.01.2022
<i>Pronounced on</i>	02.02.2022

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Civil Revision Petition (PD) No.4079 of 2016

1. Prabhu
2. Vignesh ... Petitioners

Vs.

1. Mathammal
2. Munusami ... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decretal order in rejecting the application filed in I.A.No.2989 of 2016 in M.C.O.P.No.999 of 2013, dated 14.09.2016, on the file of the Special District Court cum Motor Vehicles Accident Claims Tribunal, Salem.

For Petitioners : M/s.Saravana Selvi
for M/s.V.Raghavachari

For Respondents : No Appearance



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ORDER

The Civil Revision Petition No.4079 of 2016 is filed challenging the order and decree passed in I.A.No.2989 of 2016 in M.C.O.P.No.999 of 2013 dated 14.09.2016 on the file of the Special District Court cum Motor Vehicles Accident Claims Tribunal, Salem.

2. The petitioners are the respondents in M.C.O.P.No.999 of 2013, filed for compensation under Section 166 of the Motor Vehicles Act R/W. Rule 3 of Tamil Nadu Motor Accident Claims Tribunal Rules before the Special District Judge for M.C.O.P. Claims Tribunal, Salem.

3. The petitioners herein submitted that on 03.11.2012, while they were proceeding towards Yercaud, a motor cyclist came behind and hit them, thereby they fell down and sustained injuries and further submitted that they hit a person crossing the road and knocked him down and went away without stopping the motor cycle. Later, an F.I.R was filed against them and numbered the case as C.C.85 of 2013 before the Judicial Magistrate Court No.4, Salem. The learned Judicial Magistrate found the petitioners as guilty



and imposed a fine of sum of Rs.1000 as per Section 279 of I.P.C. in case of default to undergo one year of imprisonment and as per section 304A of I.P.C. a fine of sum of Rs.4000 was imposed, in case of default to undergo one year rigorous imprisonment. Further, the petitioners herein challenged the above said order by filing C.A.No.118 of 2014 on the file of the III Additional District Judge, Salem. Subsequently, the learned III Additional District Judge and Sessions Court, Salem, by judgment dated 05.12.2014 allowed the Criminal Appeal and acquitted the petitioners herein by setting aside the order passed by the Judicial Magistrate Court No.4, Salem.

4. Further the petitioners herein filed a petition dated 24.08.2016 in I.A.No.2989 of 2016 in M.C.O.P.No.999 of 2013 under Order 1 Rule 10(2) and Section 151 of C.P.C. R/W Section 163 of M.V.Act. to implead the United India Insurance Co. Ltd, No.24, Whites Road, Madras-600 014 as the third respondent and the District Collector, Collectorate, Salem District as the fourth respondent respectively.



5. The aforesaid petition was rejected by the Special Court cum Motor Vehicles Accident Claims Tribunal, Salem, on the ground that the petitioners did not lodge a complaint before the concerned Police Station about the accident, and the details of the treatment taken in the Government and Private Hospitals and not disclosed the details of the place where they were hit and the total days of treatment underwent by them in hospitals.

6. The above reasons given by the Tribunal for rejecting the application is not valid and the same is untenable for the reason that those are the issues to be dealt/examined and decided during the course of the trials. Moreover, the learned counsel for the petitioners contended that it is obligatory that as per section 168 of the Motor Vehicles Act, 1988, to issue a notice and an opportunity of being heard to the Insurance Company and the Insurance Company is bound to compensate the claimants if the Tribunal holds against the petitioners are covered under the insurance policy. He further contended that the affidavit in support of the petition contains sufficient cause to allow the application. The learned counsel for the petitioner also relied on the ratio laid down by the Supreme Court in



Godavari Finance Co. Vs. Degala Satyanarayanamma, (2008) 5 SCC 107,

at page 110 are read as follows:

“Motor Accidents Claims Tribunals are constituted in terms of Section 165 of the Act occurring in Chapter XII thereof. Section 166 lays down the manner in which the application for compensation should be filed and who can file the same. Section 168 deals with the award of the Claims Tribunal, sub-section (1) thereof reads as under:

*a. “168. Award of the Claims Tribunal. - (1)
On receipt of an application for compensation made under Section 166, the Claims Tribunal shall, after giving notice of the application to the insurer and after giving the parties (including the insurer) an opportunity of being heard, hold an inquiry into the claim or, as the case may be, each of the claims and, subject to the provisions of Section 162 may make an award determining the amount of compensation which appears to it to be just and specifying the person or persons to whom compensation shall be paid and in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be:*

b. Provided that where such application makes a claim for compensation under Section 140 in respect of the death or permanent disablement of any person, such claim and any other claim (whether made in such application or otherwise) for compensation in respect



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of such death or permanent disablement shall be disposed of in accordance with the provisions of Chapter X.”

In terms of the aforesaid provisions, the Tribunal is required to issue a notice to the insurer and after giving the parties, including the insurer, an opportunity of being heard, it must hold an inquiry into the claims and determine the person who would be liable therefor”

7. In view of the above facts and circumstances of the case, and the ratio laid down in the judgment of the Hon'ble Supreme Court, the order and decretal order passed in I.A.No.2989 of 2016 in M.C.O.P.No.999 of 2013 dated 14.09.2016 on the file of the Special District Court cum Motor Vehicle Accidents Claims Tribunal, Salem is liable to be set aside and the same is set aside. Accordingly, the Civil Revision Petition stands allowed. No costs. Consequently, connected Civil Miscellaneous Petition No. 20570 of 2016 is closed.

02.02.2022

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Index : Yes/No
Speaking Order/Non-Speaking Order



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C.R.P(PD).No.4079 of 2017



To:

The Special District Court cum
Motor Vehicles Accident Claims Tribunal,
Salem.



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C.R.P(PD).No.4079 of 2016



J.SATHYA NARAYANA PRASAD,J.

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Pre Delivery Order in
C.R.P(PD)No.4079 of 2016

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