



C.R.P(NPD)(MD)No.621 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2022

CORAM

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

C.R.P(NPD)(MD)No.621 of 2013
and M.P(MD) No.1 of 2013

National Insurance Company Ltd.,
4132, East Raja Street, Pudukottai,
Through its Branch Manager

... Petitioner/2nd respondent

Vs.

1.Selvaraj
2.R.S.Ananth

... 1st Respondent/Petitioner
... 2nd Respondent/
1st Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order passed in M.C.O.P.No.47 of 2006 dated 09.01.2009, on the file of the Motor Claims Tribunal (Additional District and Sessions and Special Judges Court), Pudukottai.

For Petitioner : Mr.S.Srinivasa Raghavan

For Respondents : No appearance



ORDER

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The petitioner has filed this Civil Revision Petition challenging the fair and decreetal order passed in M.C.O.P.No.47 of 2006, dated 09.01.2009, on the file of the Motor Claims Tribunal (Additional District and Sessions and Special Judges Court), Pudukottai, for granting compensation of Rs.6,000/- to the first respondent herein.

2. The revision petitioner is the second respondent and the respondents 1 and 2 herein are the petitioner and the first respondent in M.C.O.P.No.47 of 2006.

3. Facts of the case in nutshell:

3.1. The first respondent herein, who was working as a Coolie, filed M.C.O.P.No.47 of 2006, claiming a compensation of Rs.15,000/- from the petitioner – Insurance Company for the injuries he sustained in the accident which has taken place near Veppangudi on 12.10.2003 at 03.00 p.m., due to the rash and negligence driving of the bus belonging to the second respondent herein and the FIR was also registered in Ganesh Nagar Police Station Crime No.575 of 2003 under Sections 275 and 337 IPC.



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4. The main contention of the learned counsel for the first petitioner before the trial Court is that the second respondent's bus was driven by the driver in a rash and negligence manner by causing accident, as a result of which, three persons sustained injuries and the first respondent in this civil revision petition is one among them.

5. Learned counsel appearing for the revision petitioner – Insurance Company by refuting the above allegation, submitted that as per criminal records, it reveals that at the time of accident, three persons ridden one M80 gear motorbike and they have also consumed alcohol and lost their balance and dashed with the first respondent's bus and caused and invited the accident and moreover, the rider of M80, that is, the first respondent herein was not having valid driving license and not eligible to ride a gear motorbike. The above aspects are in violaton of the petitioner – Insurance Company policy condition and hence, there are not liable to pay the compensation. Hence, he prayed to set aside the order passed by the trial Court and allow the civil revision petition.



6. Heard the learned counsel appearing for the petitioner and perused the material available on record. Though the notice was served on respondents 1 and 2, none appeared for them either in person or through Counsel.

7. On perusal of records, it is pertinent to note that during the evidence, the revision petitioner – Insurance Company has admitted the medical report which shows that the first respondent was admitted in the Government Hospital, Pudukottai, on 12.10.2003 and later discharged on 17.10.2003. The evidence adduced on the side of the revision petitioner – Insurance Company before the trial Court as well as the counter-affidavit filed by them in this petition reveal that at the time of accident, three persons ridden one M80 gear motorbike and they have consumed alcohol and as a result, they have lost their balance and dashed against the first respondent's bus and caused and invited the accident, however, no evidence/documentary proof had been adduced by the revision petitioner – Insurance Company to substantiate their claim. No medical test / examination was conducted to that effect. Therefore, it is crystal clear and evident that in this case, there is no oral or documentary evidence has been produced to show that the first respondent has contributed to



the accident. Secondly, with regard to the consumption of alcohol, there is no medical test / examination was conducted to prove the same.

8. Even in the findings of the trial Court, it is categorically stated that “even though the Insurance Company has stated that the petitioners have contributed to the accident, there is no oral or documentary evidence to prove the same”.

9. In view of the above facts and circumstances of the case, the order passed by the trial Court in M.C.O.P.No.47 of 2006, dated 09.01.2009, on the file of the Motor Claims Tribunal (Additional District and Sessions and Special Judges Court), Pudukottai, is hereby confirmed and the civil revision petition is dismissed.

10. Since the revision petitioner – Insurance Company has already deposited a sum of Rs.3,000/- [Rupees Three Thousand only] on 01.04.2009, it is directed to deposit the remaining award amount of Rs.3,000/- along with the interest at the rate of 7.5% per annum, from the date of award till the date of realization, within a period of four weeks from the date of receipt of a copy of this order.



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11. On such deposit being made, the first respondent/petitioner is permitted to withdraw the award amount with accrued interests at the rate of 7.5% per annum from the date of award till the date of realization, by filing as apportioned by the tribunal, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

12. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

01.12.2022

Index : Yes/No
Internet : Yes/No
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To

- 1.The Motor Claims Tribunal
(Additional District and Sessions
and Special Judges Court),
Pudukottai.
- 2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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J.SATHYA NARAYANA PRASAD, J.

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