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C.R.P. No. 3532 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :.27.09.2023

CORAM :

**THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN**

C.R.P. No. 3532 of 2023

and

C.M.P.No.22091 of 2023

M/s Haryana Punjab Roadways  
Represented by its partner,  
Having office at,  
No.10/ 86/A7, Avinashi Road,  
Arasur Pirivu,  
Arasur Post, Coimbatore

...Petitioner

.Vs.

1. M/s. The Oriental Insurance Company Ltd.,  
Rep by its Senior Divisional Manager,  
No.4,RVR, Building II Floor,  
Head Quarters Road, Coimbatore.

2. M/s. S and T Engineers Pvt. Ltd.,  
Rep by its Branch Manager,  
No.22, Vasantha Nagar, Trichy Road,  
Singanallur, Coimbatore,  
Represented by its power agent,  
The Oriental Insurance Company Ltd.,  
Rep. by its Senior Divisional Manager,  
No.4 RVR Building II Floor,  
Head Quarters Road, Coimbatore.

...Respondents



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**Prayer:** This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order made in I.A.No.1 of 2023 in C.O.S.No.7 of 2023 dated 16.08.2023 on the file of District Judge, Commercial Court, Coimbatore and allow this Civil Revision Petition.

For Petitioner : Mr. M. Venkadesh Kumar

**ORDER**

This petition is filed seeking a direction to set aside the order made in I.A.No.1 of 2023 in C.O.S.No.7 of 2023 dated 16.08.2023 on the file of District Judge, Commercial Court, Coimbatore and pass orders.

2. The facts of the case is that the petitioner company is a Transport Company and the second respondent is a manufacturer and also engaged in the trading of machineries and the second respondent approached the petitioner for transport of machineries from Coimbatore to Jaipur and the same was accepted by the petitioner. One of the terms of agreement was that the Goods are carried at owners Risk. Whiles, due to some unforeseen circumstances the vehicle met with an accident and caused damages to the goods. However, the petitioner issued damage certificate to the second respondent for claiming insurance and based on the same the



second respondent received the entire claim amount as full and final settlement. When this being the case, the respondents herein filed has filed the suit in C.O.S.No.7 of 2023 against the petitioner herein for recovery of a sum of Rs.47,98,856/ with interest at the rate of 18% from the date of suit till realization. Hence, the petitioner filed I.A.No.1 of 2023 in C.O.S.No.7 of 2023 to reject the plaint with cost under VII Rule 11(a) and (d) and Section 151 of C.P.C and the learned Judge dismissed the same vide order dated 16.08.2023 with a direction to the petitioner to pay a sum of Rs.20,000/ payable to the District Mediation and Conciliation Center Coimbatore and Rs.5,000/ payable to the Respondents/plaintiffs, which has given rise to this petition.

3. The learned counsel for the petitioner submitted that there is no negligence on the part of the driver of the petitioner for the accident occurred. He further submitted that the suit does not disclose any cause of action, however, the cost imposed against the petitioner is not justifiable at any point. Hence he prays to allow this petition.



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4. Hence, this Court is of the considered view that that the cost imposed on the petitioner for a sum of Rs.20,000/- payable to the District Mediation and Conciliation Center Coimbatore is on the higher side and the same is hereby set aside and further condition imposed on the petitioner to pay a sum of Rs.5,000/- payable to the Respondents/plaintiffs is confirmed. This Court directs the petitioner to pay the amount of Rs.5,000/ to the Respondents/plaintiffs on or before 31.10.2023.

5. With the above directions, this Civil Revision Petition is disposed of and the learned District Judge, Commercial Court, Coimbatore is directed to proceed with the trial in the manner known to law. No order as to costs. Consequently, the connected miscellaneous petition is closed.

27.09.2023

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Index : Yes/No

Internet: Yes/No



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To.

1. The District Judge, Commercial Court, Coimbatore.

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**V.BHAVANI SUBBAROYAN,J.**



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