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C.R.P. (PD) .No.5028 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.5028 of 2024

and

C.M.P.No.28226 of 2024

T.Roselind Mary Pushpam

.. Petitioner

Vs.

1.Amalorpava Mary

2.Minor. B.Theo Francis

(Minor 2nd respondent represented
by natural guardian and next
friend, his mother Amalorpava
Mary, 1st respondent)

3.The IFFCO TOKIO General Insurance Co. Ltd.,
Motor Third Party Claim Cell,
No.128, 4th Floor, Abibullah Road,
T.Nagar, Chennai – 600 017.

4.Maria Sornam

.. Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order passed in M.P.No.2 of 2022 in M.C.O.P.No.6555 of 2019, on the file of the Chief



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Small Causes Court / MACT at Chennai, dated 12.12.2023 by allowing the present civil revision petition.

For Petitioner : Mr.Ma.P.Thangavel
For RR 1 & 2 : Mr.K.Varadha Kamaraj
For R3 : Mr.J.Michael Visuvasam

ORDER

This civil revision petition challenges the order passed by the learned Chief Judge, Small Causes Court, (Motor Accident Claims Tribunal), Chennai, dated 12.12.2023 in M.P.No.2 of 2022 in M.C.O.P.No.6555 of 2019.

2.M.C.O.P.No.6555 of 2019 has been presented on account of the death of one J.Benjamin Prabu on 08.11.2019.

3.The claimants contended that the deceased was riding a motorcycle when a vehicle that was owned by the 1st respondent / civil revision petitioner, insured by the 2nd respondent, was driven in a rash and negligent manner dashed against the vehicle in which the deceased was travelling.



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4.The case of the 1st respondent is that she had transferred the vehicle to one M/s.Popular Vehicles and Services, Chennai, months before the accident on 26.07.2019. She also obtained a sale receipt and delivery receipt on the very same day. Subsequently, the vehicle was sold by M/s.Popular Vehicles, Chennai, in favour of the 4th respondent in the M.C.O.P., viz., Yogeshwaran.

5.As the motor vehicle had already been sold, the 1st respondent contended that she is neither a proper nor necessary party to the proceedings. Hence, she took out an application in M.P.No.2 of 2022 to have her name removed from the array of parties.

6.The claimants filed a counter stating that the vehicle was insured by the 2nd respondent – Insurance Company issued in the name of the civil revision petitioner and therefore, she cannot be removed from the array of parties.



7.The Insurance Company also filed a counter opposing the application.

8.Before the learned Trial Judge, the sale receipt, delivery receipt, purchase agreement and declaration were produced as exhibits. Additional proof of transfer in the Registration Certificate (RC) Book was also demonstrated by filing Ex.P3.

9.The learned Trial Judge, after a perusal of the affidavit and counter affidavit, came to a conclusion that the petition to delete does not deserve consideration and dismissed the same. Hence, the revision.

10.When the matter came before this Court, I requested Mr.Ma.P.Thangavel to serve papers on the counsel who represented the Insurance Company as well as the claimants in the Court below. Pursuant to the notice, Mr.K.Varadha Kamaraj and Mr.J.Michael Visuvasam have appeared before the Court.



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11.I heard the parties.

12.An owner would be liable even if the vehicle has been transferred, if the records reveal that he continues to be the owner of the vehicle. Insofar as this case is concerned, the petitioner has proved through Ex.P2 and Ex.P3 that she had sold the vehicle to M/s.Popular Vehicles and Services, Padi, Chennai and they had in turn sold the vehicle to the impleaded 4th respondent in the M.C.O.P. This establishes that on the date of the accident, not only had the petitioner validly transferred the vehicle in favour of an agency, but the agency had also transferred it in favour of the 4th respondent.

13.The apprehension that has been expressed by the claimants that the insurance policy was issued in the name of the civil revision petitioner and therefore, she cannot proceed as against the 4th respondent is unfounded. This is on account of Section 157 of the Motor Vehicles Act, 1988.

14.In terms of the said provision, in case the certificate of insurance is issued and subsequently, if the vehicle is transferred in favour of an other



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person, then the Policy is deemed to have been taken in favour of the person in whose name the vehicle has been transferred. Since, the transfer has been proved and since there is deeming clause covering the 4th respondent, the presence of the civil revision petitioner is unnecessary.

15. Consequently, this Civil Revision Petition is allowed and the order dated 12.12.2023 in M.P.No.2 of 2022 in M.C.O.P.No.6555 of 2019 is set aside. The civil revision petitioner shall be deleted from the array of parties. At this stage, Mr.J.Michael Visuvasam states that the main proceeding itself is posted for judgment on 02.01.2025. Mr.Ma.P.Thangavel is permitted to file a memo indicating to the Trial Court that the revision has been allowed and the name of the 1st respondent in the M.C.O.P.No.6555 of 2019 stands deleted. Consequently, the connected Miscellaneous Petition is closed. No costs.

19.12.2024

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Index : Yes / No



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Internet : Yes / No

Neutral Citation : Yes / No

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To

The Chief Judge,
Small Causes Court,
Motor Accident Claims Tribunal,
Chennai.



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V.LAKSHMINARAYANAN, J.

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