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C.R.P.(PD) No.1135 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.04.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD) No.1135 of 2025
and CMP.No.6642 of 2025

Go Digit General Insurance Co. Ltd.,
No.528, Old No.559, Anna Salai
Above Skoda Showroom, Teynampet
Chennai - 600 018.

... Petitioner

Vs.

1.Sathish
2.Mythili
3.Iyyapasamy

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the judgment and decree dated 21.01.2025 made in M.P.No.6 of 2025 in MCOP.No.2193 of 2023 on the file of Chief Judge, Small Causes Court, Chennai, and permit the petitioner to amend Para No.5 of the counter statement filed in the main claim petition and also permit the petitioner to re-open and adduce their evidence.

For Petitioner : Mr.B.Siva Kollapan

For Respondents : Mr.K.Govi Ganesan for R1



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ORDER

Challenging the rejection of their application seeking to amend paragraph No.5 of their counter statement, the Insurance Company, the second respondent in MCOP.No.2193 of 2023 is before this Court.

2. It is the contention of the revision petitioner/insurance company that the first respondent herein had filed claim petition before the Motor Accident Claims Tribunal, Small Causes Court, Chennai, claiming compensation for the death of his brother in a motor accident. The FIR report would state that the accident was caused by an unknown vehicle while the deceased was riding his motor cycle, and that the first respondent's lorry was falsely implicated. The MVI report also concur with the same.

3. The insurance company had filed a counter statement wherein in paragraph No.5, inadvertently, it had stated that the accident had occurred due to the rash and negligent driving of the motor cycle by the deceased, who while trying to overtake the ongoing vehicle, suddenly intruded the path of the first respondent's lorry instead of "intruded the path of the unknown vehicle", which is contrary to the contents of the FIR and the MVI report.



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Therefore, the revision petitioner/insurance company sought to amend the same and filed an application in M.P.No.6 of 2025 in MCOP.No.2193 of 2023.

4. This application has been rejected by the Tribunal on the ground that originally an application was taken out by the insurance company for filing additional counter, which came to be dismissed. Therefore, with an intention to raise the same plea by way of an amendment, the present M.P.No.6/2025 was filed, and hence, the same cannot be allowed. Challenging the same, the insurance company is before this Court.

5. Heard the learned counsel on either side.

6. Admittedly, a perusal of record states that the accident had taken place on account of rash and negligent driving of an unknown vehicle. The statement made in the counter of the petitioner therefore is contrary to the facts. That apart, even if the second respondent/owner of the vehicle were to make a statement in the counter affidavit, the same is subject to proof. No prejudice would be caused to the revision petitioner, if the said amendment



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is ordered. Therefore, the order of the Chief Judge, Small Causes Court, Chennai, dated 22.01.2025 in M.P.No.6/2025 in MCOP.No.2193 of 2023 is set aside.

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7. The civil revision petition is accordingly allowed. No costs.

Consequently, connected miscellaneous petition is closed.

17.04.2025

Index : Yes / No

Neutral Citation : Yes / No
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To:

- 1.The Chief Judge
Small Causes Court, Chennai.
- 2.The Section Officer
VR Section, High Court, Madras.



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P.T. ASHA, J.

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