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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)Nos.1189 & 1192 of 2022

and

C.M.P(MD)No.4858 of 2022

C.R.P.(PD)(MD)No.1189 of 2022

P.Durainpandian ...Petitioner/1st Respondent/1st Respondent

Vs.

1.M.Paneer Selvam

...1st Respondent/Petitioner/Claimant

2.The Divisional Manager,
Royal Sundaram Insurance Company Limited,
No.12-A, 5th Floor, ATP Towers,
Bye-pass Road,
Madurai – 625 010.

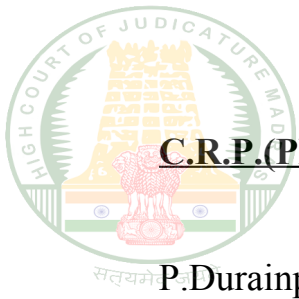
...2nd Respondent/2nd Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the entire records pertaining to I.A.No.83 of 2022 in M.C.O.P. No. 87 of 2016, on the file of the Learned Subordinate Judge, Paramakudi, to set aside the fair and decretal order to pass such further or other orders, as this Court.

For Petitioner : M/s.C.M.Arumugam

For Respondents : Mr.D.Senthil for R1
Mr.S.Srinivasa Raghavan for R2

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C.R.P.(PD)(MD)No.1192 of 2022

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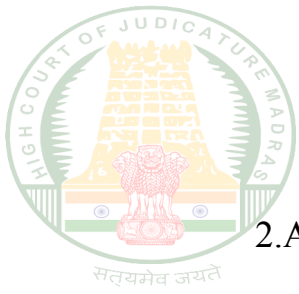
PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the entire records pertaining to I.A.No.84 of 2022 in M.C.O.P. No. 87 of 2016, on the file of the Learned Subordinate Judge, Paramakudi, and to set aside the fair and decretal order to pass such further or other orders, as this Court.

For Petitioner : M/s.C.M.Arumugam

For Respondents : Mr.D.Senthil for R1
Mr.S.Srinivasa Raghavan for R2

COMMON ORDER

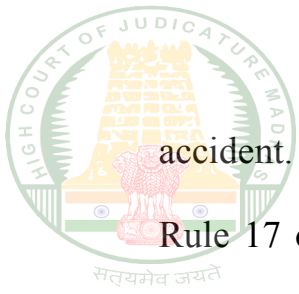
The first respondent in M.C.O.P.No.87 of 2016, on the file of the Sub Court, Paramakudi, has filed the present revision petition, challenging the allowing of an application filed by the claimant to amend the registration number of the vehicle involved in the accident.



2.A perusal of the claim petition reveals that the injured claimant has filed the above said claim petition contending that the registration number of the offending vehicle is TN-63-F-0123. This registration number was based upon the FIR lodged by a third party in Crime No.119 of 2016 on the file of the Parthibanoor Police Station, Ramanathapuram Police Station, dated 04.05.2016.

3.The first respondent is the owner of the said Mahindra vehicle and the second respondent is the insurance company. The Insurance company has filed a counter contending that TN-63-F-0123 has not been insured with them. On the other hand, TN-65-F-0123, has been insured with them. The cheque was issued by the owner of the vehicle towards premium and cheque was dishonoured. The owner of the vehicle was put on notice and the policy was cancelled. Therefore, according to the Insurance Company, as on the date of the accident, TN-65-F-0123 vehicle was not having subsisting policy.

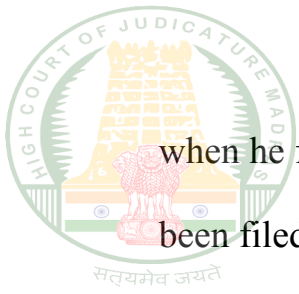
4.On 04.09.2020, an ex-parte award came to be passed to pay a sum of Rs.1,44,000/-.Thereafter, the claimant had filed E.P.No.5 of 2020. At that stage, the first respondent had filed an application to set aside the ex-parte award and the same was allowed. The claimant was cross examined by the owner of the vehicle, namely, the first respondent. At that relevant point of time, it was pointed out by the first respondent, that is, vehicle was not involved in the said



accident. Thereafter, the claimant had filed I.A.No.84 of 2022, under Order 6 Rule 17 of C.P.C. to amend the claim petition for the purpose of substituting TN-63-F-0123 and for inserting TN-65-F-0123 in all the places in the claim petition.

5.This amendment application was resisted by the first respondent contending that only TN-63-F-0123, was involved and not his vehicle. He has filed his counter way back in October 2021, to the effect that his vehicle was not involved in the accident. Despite the said fact, the present application to amend the claim petition has been filed only in the year 2022. He further contended that as per FIR and the charge sheet, only the vehicle No.TN-63-F-0123 is shown. However, the tribunal has proceeded to allow the application relying upon the Motor Vehicle's report, wherein the vehicle with registration No.TN-65-F-0123 was subjected to investigation. Challenging the same, the present revision petition has been filed by the first respondent.

6.According to the learned Counsel appearing for the revision petitioner, both in the FIR as well as in the charge sheet, the registration number of the vehicle is mentioned only as TN-63-F-0123. In such circumstances, the claimant should not have been permitted by the Court to amend the claim petition at the time of cross examination of P.W.1. He further contended that the plea of the non-involvement of the vehicle was taken way back in October 2021



when he files his counter. After a delay of five years, the present application has been filed.

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7.He also pointed out that fine has been paid by the driver of the vehicle bearing Registration No.TN-63-F-0123 and not by the driver of the vehicle bearing Registration No.TN-65-F-0123. In such circumstances, the claimant is attempting to involve his vehicle for the first time in the claim petition and the same is not maintainable.

8.Per contra, the learned Counsel appearing for the claimant/first respondent herein had contended that the third party, namely, Arun kumar, has lodged a police compliant relating to the accident on 04.05.2016 wrongly mentioning the vehicle number. The police authorities after investigation have filed alteration report pointing out that the correct vehicle Number as TN-65-F-0123. He further pointed out that only the vehicle with registration No. TN-65-F-0123 was subjected to inspection by the Motor Vehicle Inspector. In such circumstances, the amendment in the claim petition cannot be set to be without any basis. Hence, he prayed for sustaining the order passed by the Tribunal.



9.I have considered the submissions made on either side and perused the materials available on record.

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10.A perusal of FIR reveals that the registration number of the offending vehicle is mentioned as TN-63-F-0123. The claim petition has been filed only as against the said vehicle. Though a counter has been filed by the first respondent disputing the involvement of the said vehicle, the claimant has not taken any steps to amend the claim petition. However, when P.W.1 was cross examined, they have traced certain documents like alteration report and the Motor Vehicle report and relying upon these two documents, the amendment application has been filed to the effect that the vehicle involved in the accident is TN-65-F-0123. However, the learned Counsel appearing for the first respondent had contended that these documents have not been produced before the Court and the genuineness and the validity of these documents are not admitted.

11.This Court has perused the alteration report as well as the Motor Vehicle report for TN-65-F-0123 and this Court is of the considered opinion that the claimant has made out a prima facie case for amending the claim petition for the purpose of altering the vehicle number of offending vehicle from TN-63-F-0123 to TN-65-F-0123. When the first respondent specifically disputed the involvement of the vehicle, namely, TN-65-F-0123, the entire

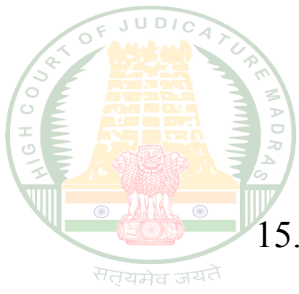


burden is upon the claimant to establish the involvement of the said vehicle by filing all the relevant documents before the tribunal. In such circumstances, at this stage, the amendment application cannot be rejected. The tribunal has rightly allowed the said application.

12.The first respondent had filed C.R.P.(MD)No.1189 of 2022, challenging the order passed in I.A.No.83 of 2022, filed by the claimant to reopen his case for the purpose of examining of RTO officials for marking certain documents. This application has also been filed on the ground that once amendment of the pleadings relating to vehicle number is allowed, as a consequence, the application for reopening has to be allowed for the purpose of marking certain documents to the RTO officials.

13.This Court is of the considered opinion that once the amendment application stands allowed, the documents which relates to TN-65-F-0123, have to be marked before the Court through appropriate officials. Therefore, this Court does not find any reasons to interfere in the said order. Both the Civil Revision Petitions stand dismissed with the above said terms.

14.Considering the fact that the claim petition is of the year 2016, the tribunal is directed to dispose of the claim petition on or before **31.08.2025**.



15. In the result, both the Civil Revision Petitions stand dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

18.03.2025

Internet: Yes/No
Index: Yes/No
RJR

To

The learned Subordinate Judge, Paramakudi.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

RJR

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