

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.2106 of 2016
and
C.M.P.No.11035 of 2016

A.Joseph Antoine

... Petitioner

vs

1.Hari Krishnan

2.The Branch Manager
IFFCO-Tokyo General Insurance Company
Chennai 600 017.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order of learned II Additional District Judge, Puducherry passed in I.A.No.17 of 2016 in M.A.C.T.O.P.No.246 of 2011 on 16.03.2016.

For Petitioner : Mr.P.Veeraraghavan

ORDER

In dismissing the interlocutory application in I.A.No.17 of 2016, in M.A.C.T.O.P.No.246 of 2011, in and by order dated 16.03.2016, the court below has reasoned as follows:

"5. It is stated in the affidavit that P.W.2, Dr.Selvaraj, fixed the disability of the petitioner as 68%. P.W.2 not treated the petitioner. R1 sustained simple injury on his left foot. The disability fixed by P.W.2 is exorbitant. R2 has no counter. It is stated in the counter of R1 that the injury sustained by him to fracture at fibula as Exs.P82 and P83, wound certificate issued by gh, doctor. On the next day of accident he was admitted in the MIOT Hospital i.e., on 25.04.2009 and discharged on 04.05.2009 and underwent surgery on the same day. Further, P.W.2 is also an ortho specialist. this petition is filed to drag on the proceedings.

6.Perused the records. This petition was filed in the argument stage. As per Ex.P83, would certificate issued by GH, Puducherry and radiology opinion, medical malleolus was found in fibula and final opinion grievous. So, the averment in the petition that the injury is simple is a false case. As per 2010 ACT 756 disability is a condition which can be assessed by any qualified medical practitioners. There is no rule of thumb that only the certificate issued by the doctor who treated the injured alone has evidentiary value to determine the amount of compensation.

7. In this case P.W.2 is also an ortho doctor. So there is no necessity to send R1 to an ortho doctor attached to GH, Puducherry. Since R1 has sustained two fractures and surgery was done at MIOT Hospital and the injury sustained by him is grievous in nature. There is no necessity to send R1 to gh ortho doctor. This petition is filed with false averment as if the injury is simple to drag on the proceedings. Hence, petition is dismissed."

2. Aggrieved by the above order, the respondent no.1, owner of the vehicle involved with the accident, had preferred the present revision.

3. Concurring with the reasoning of the court below and taking note of the fact that the petition has been moved at the stage of arguments, we are not inclined to allow this revision. Finding no merit, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

14.07.2016

Index:yes/no
Internet:yes
smi

To
1. The II Additional District Judge, Puducherry

C.T.SELVAM, J

smi

Civil Revision
Petition (PD) No.2106 of 2016

14.07.2016