



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2016

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P. (NPD) (MD) No.1968 of 2016

T.Vivek @ Vivekkumar

... Petitioner

Vs.

1. Abbas Manthiri

2. The Divisional Manager,
The New India Assurance Company Limited,
No.248-B, Kamarajar Salai,
Madurai 625 009.

3. N.Dinesh

... Respondents

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India against the returning order passed in M.C.O.P.SR.No.12015 of 2016 on the file of Motor Accident Claims Tribunal / Principal District Court, Madurai, dated 07.09.2016.

For Petitioner : Mr.K.Kumaravel
For R2 : Mr.J.S.Murali

O R D E R

The petitioner has filed this Civil Revision Petition against the returning order passed by the Motor Accident Claims Tribunal / Principal District Court, Madurai in M.C.O.P.SR.No.12015 of 2016, dated 07.09.2016.

2. The learned counsel for the petitioner submitted that the petitioner is residing at Murukkodai Village, Varusanadu Post, Andipatti Taluk, Theni District and he has taken treatment in Velammal Medical College Hospital, Madurai from 31.03.2016 till today. All the medical records pertaining to the treatment of the petitioner is only with the Velammal Medical College which is in the local limit. Further, it is also submitted that the second respondent/Insurance Company having its Regional Office at Madurai, that is within the territorial jurisdiction of the Principal District Court, Madurai. In the light of the decision rendered by this Court in ***Oriental Insurance Company Limited v. Muthumeenal*** reported in **2016 (2) TN MAC 58**, the Principal District



Munsif, Madurai is having jurisdiction to entertain the claim petition filed by the claimant. Hence, the petitioner has filed the present civil revision petition before this Court, challenging the impugned order passed by the Principal District Court, Madurai, dated 07.09.2016.

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3. Per contra, the learned counsel for the second respondent submitted that under the Motor Vehicles Act, 1994, there is no provision contemplates that the filing of the claim petition restricting the territorial jurisdiction. It is also submitted that the Regional Office is situated at Madurai.

4. Heard the learned counsel for the petitioner and the learned counsel for the second respondent.

5. Considering the submissions made by the learned counsel for the parties, the Principal District Court, Madurai has returned the claim petition filed by the petitioner/claimant, on 07.09.2016, with the following endorsement:

"Returned : 07.09.2016

Section 166(2) of the Motor Vehicles Act enables the injured / claimant to prefer petition before the Tribunal "where claimant resides or carries on business" It is prescribed in the Act.

Place "where respondent carries on business" is not prescribed in the act as a place where claimant can present his petition. Therefore, Tribunal can't go beyond Section 166(2) MV Act and take the case on file which is within the local limits of other forum.

In the citation case produced the 'claimant carried on business' within the local limits of the Tribunal. The insurer not resided but the business carrying on branch is pleaded as a party in the case. The appellate Court dismissed the award of the Tribunal without noticing the petition was within Section 166(2), on the ground, "where respondent resides not mean and include, where respondent carries on business".

Therefore, the Apex Court held the appellate Court's findings "as not justified". Further, opined in that case Sec.21 CPC not adopted by appellate Court and to ascertain local limits, beyond Sec.166(2), CPC can also be followed, Sec. 19 of CPC speaks about suit for compensation for wrong committed to person u/s. 19 C.P.C. "where the respondent carried on business".

The case on hand was not within Sec. 166(2) MV Act. In the case on hand, the "wrong committed" was not within this Court's local limits.

Hence returned to present before Tribunal vested with territory or to prove how within the Tribunal's



**local limits with documents.
Time one month."**

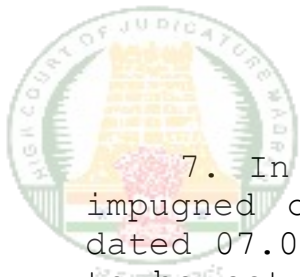
The said order passed by the Principal District Court, Madurai is the subject matter, against which the present civil revision petition is filed.

6. In the light of the decision rendered by this Court in **Oriental Insurance Company Limited v. Muthumeenal** reported in **2016 (2) TN MAC 58**, in paragraph Nos.14, 15 and 16, it is stated as follows:

"14. The Hon'ble Apex Court held that the Tribunal has Territorial jurisdiction based on residence of the claimants. The residence of a person would depend upon facts of given case. When the Tribunal has jurisdiction to entertain a claim petition, the claim cannot be rejected on the question of lack of territorial jurisdiction unless it is shown that prejudice and hardship caused to the insurance company. The liability of Insurance company is to reimburse amount payable by the insured owner of vehicle. It is only in exceptional cases as provided under Section 170 of the M.V. Act, the Insurance Company can defend the claim.

15. In Paragraph 14 of the judgment reported in Mantoo Sarkar v. Oriental Insurance Co. Ltd. and another, 2009 (1) TN MAC 68 (SC) [cited supra], the Hon'le Apex Court held that claim petition can be filed at the place where the insurance company is having its business. Paragraph 14 of the judgment relied on by the learned counsel for the respondents is squarely applicable to the facts of the present case.

16. The petitioner is alleging that for lack of Staff, they cannot properly contest the claim of the respondents and due to pendency of large number of claim petitions at Madurai and it will take long time to dispose the claim petition, which will prejudice to the respondents also, is not a reason for holding that the petitioner is put to hardship. The claim of the petitioner that the claim petition is not maintainable against the administrative office, is not acceptable. It is not the case of the petitioner that they are not having any Branch Office at Madurai. In view of residence of respondents at Madurai and Branch Office of the petitioner at Madurai, the Tribunal has Territorial Jurisdiction to entertain the claim petition filed by the respondents."



7. In the light of the aforesaid decision of this Court, the impugned order passed by the Principal District Court, Madurai, dated 07.09.2016 is not sustainable in law and the same is liable to be set aside. Accordingly, this Court is inclined to pass the following order:

The impugned order dated 07.09.2011 passed by the Principal District Court, Madurai is set aside and the petitioner/claimant is directed to re-present the claim petition within a period of two weeks from the date of receipt of a copy of this order, subject to the compliance of the other defects pointed out by the Principal District Court, Madurai. If it is in order, the Motor Accident Claims Tribunal / Principal District Court, Madurai is directed to entertain the O.P. without insisting upon the territorial jurisdiction and proceed with the same in accordance with law.

8. In view of the above, the civil revision petition is allowed. No costs.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

akv

To

1. The Principal District Judge,
(Motor Accident Claims Tribunal), Madurai.

2 The Divisional Manager,
The New India Assurance Company Limited,
No.248-B, Kamarajar Salai,
Madurai 625 009.

Copy To : The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court, Madurai.
(to return the Original Petition)

+1CC to Mr.K.Kumaravel, Advocate Sr.No.58142
+1CC to Mr.J.S.Murali, Advocate Sr.No.58207

GJM/SK/SKN/SAR-3-21.11.16-4p-6C

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