

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2017

CORAM :

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

CRP.(PD).No.3496 of 2017
and CMP.No. 16252 of 2017

National Insurance Co.Ltd.,
Anna Salai, III Floor, Chennai ... Petitioner

Vs.

1. P.Amos Roger Wilfred
A.C.57/2, 5th Cross Street,
Anna Nagar, Chennai-600 040. ... Petitioner/Respondent
2. A. Munvar Basha ... 1st Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the docket order passed by the Tribunal in M.P.No. 2114 of 2017 in M.C.O.P No. 4333 of 2013 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai, dated 24.08.2017.

For Petitioner : Mr.S.Arun Kumar
For Respondent : Mr.S.K.Suryanarayanan

* * * * *

ORDER

This Civil Revision petition is directed against the docket order which dismisses the petition to issue subpoena to the "Ford Company". The issue arises out of a Motor Insurance Claim made before the Motor Accidents Claims Tribunal, II Small Causes Court, Chennai.

2. The Petitioner/Insurance Company prays for the issuance of subpoena to "Ford Company" to produce before court the particulars of attendance of first respondent/claimant. Admittedly, the employer of the claimant has stated that from 12.03.2013 to 15.03.2013 the claimant was deputed to "Ford Company". In order to elicit the veracity of the presence of the claimant at the deputed place, the petitioner/insurance company has filed the above petition to issue subpoena to "Ford Company" and to produce the attendance of claimant/first respondent between 12.03.2013 and 15.03.2013 and the said petition was dismissed.

3. The learned counsel appearing for the first respondent stated that the claimant is not the employee and therefore, he is not governed by the rules of the "Ford Company", whereas he was sent on

deputation by his employer. Therefore, the tribunal has dismissed the application stating that not being the employer "Ford Company cannot produce the attendance register.

4. The Counsel for the petitioner would submit that the petitioner/insurance company has sought for the attendance and presence of the claimant at "Ford Company", as per the orders of deputation made by the employer. That he will be satisfied, if the relevant documents are produced by "Ford Company" which will elicit the genuineness of the employment details and the income of the claimant.

5. The learned counsel appearing for the respondent seriously opposed this petition. The Tribunal has held that the claimant was not an employee of Ford Company and therefore, this petition is not maintainable and the petition merits no consideration.

6. In the opinion of this Court, the prayer sought in this petition requires consideration. It is true that "Ford Company" is not the employer and cannot produce the attendance register of the claimant. But admittedly the claimant was sent on deputation to "Ford

Company" between 12.03.2013 and 15.03.2013. If that be so, there shall be some record to show that the deputed employee entered the premises of "Ford Company" and did some work. His presence on the said dates can be shown by some record. This may elicit the employment of the claimant, his cadre and income.

7. Since the petition is filed to elicit the income particulars, attendance and genuineness of the employment details of the claimant, this Court is inclined to set aside the order passed by the tribunal and to direct the tribunal to issue subpoena to the "Ford Company" for the purpose of producing available documents relevant to this case, with regard to the employment and deputation of the claimant between 12.03.2013 to 15.03.2013. Accordingly, the impugned order is set aside, for the limited purpose observed above.

8. With the above observations, this Civil Revision Petition is disposed of. No Costs. Consequently connected miscellaneous petition is closed.

20.09.2017

Index : yes/no
Internet : yes/no
bsm

Note: Issue order copy on **16.11.2017**

To

The Motor Accidents Claims Tribunal,
II Court of Small Causes, Chennai

M.GOVINDARAJ, J.

bsm

CRP.(PD).No.3496 of 2017
and CMP.No. 16252 of 2017

20.09.2017