

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.06.2017

Coram:

The Honourable Ms.**Justice V.M.VELUMANI**

C.R.P.(PD)No.4019 of 2016
and C.M.P.No.20307 of 2016

The Divisional Manager,
ICICI Lombard General Insurance Company Limited,
No.140, 2nd and 3rd Floor,
Nungambakkam High Road,
Nungambakkam, Chennai.

... Petitioner

Vs.

Ravi

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 17.10.2016 passed in I.A.No.1424 of 2016 in M.C.O.P.No.1089 of 2013 on the file of the Motor Accident Claims Tribunal, (Special Sub Court) Tiruvannamalai.

For Petitioner : Mr.V.Venkatachalam for
M/s.P.H.Manoj Pandian

For Respondent : Notice refused.

ORDER

This Civil Revision Petition filed against the fair and decreetal order dated 17.10.2016 passed in I.A.No.1424 of 2016 in M.C.O.P.No.1089 of 2013 on the file of the Motor Accident Claims

Tribunal, (Special Sub Court) Tiruvannamalai.

2. The Petitioner is the 2nd respondent in M.C.O.P.No.1089 of 2013. The respondent filed the M.C.O.P. claiming compensation against the petitioner and others. The petitioner filed an Interlocutory Application in I.A.No.1424 of 2016 to summon the Sub Inspector of Police, Thiruvannamalai East Police Station and Deputy Superintendent of Police, Thiruvannamalai Town Sub Division to adduce evidence and to produce C.D. file pertaining to Cr.No.338/2013, Thiruvannamalai East Police Station.

3. According to the petitioner, the accident occurred only due to the negligence on the part of the respondent. The Inspector of Police, Thiruvannamalai East Police Station lodged FIR and a charge sheet was filed against the respondent. To prove the nature of the accident, place of accident, the Topography of the place of accident and charge sheet filed against the respondent, the Investigating Officer has to be examined to produce the above said documents.

4. The learned Judge considered the materials on record and held that, even though the C.D. file cannot be used as evidence, investigation done by the Police and the judgment passed in a Criminal

Court will not be binding on the Tribunal, but it can be used to arrive at a decision with regard to negligence and held that, it is for the petitioner to apply the certified copy of the sketch and charge sheet and to file the same in the Court. For this purpose, the Investigating Officer or the Deputy Superintendent of Police need not be examined.

5. Against the order dated 17.10.2016, the present Civil Revision Petition is filed.

6. The investigation done by the Police, charge sheet and the judgment passed in a Criminal Court are not binding on the Tribunal. As rightly held by the learned judge, the same can be used to assist the court to arrive at a conclusion as to negligence on the part of the respondent/claimant. The C.D. file cannot be summoned and Investigating Officer cannot be called to give evidence with regard to negligence. When the Civil Revision Petition is taken up for hearing, the learned counsel appearing for the petitioner submitted that he will withdraw the application to summon the C.D. File.

7. It is open to the petitioner to apply for certified copy of the sketch, FIR and charge sheet and mark the same to prove the

negligence on the part of the respondent.

V.M.VELUMANI, J.

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8. In the result, the Civil Revision Petition is dismissed. No costs.
Consequently connected Miscellaneous Petition is also closed.

12.06.2017

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To
The Motor Accident Claims Tribunal (Special Sub Court),
Thiruvannamalai.

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