

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 24.01.2018

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P.(PD) No.2674 of 2017

M.Jayamurugesan

... Petitioner

Vs

1 The Chairman
The Optimus Public School,
Bhavani Taluk,
Erode District

2 United India Insurance Co. Ltd.,
Salem.

... Respondents

This Civil Revision Petition is filed under section 227 of Constitution of India seeking direction to take the petition on file, which was filed in M.C.O.P.SR No.8203 of 2016 on the file of the Special District Judge, Salem.

For Petitioner : Mr.R.Ezhilarasan
For Respondent No.2 : Mr.A.Arunkumar

ORDER

Mr.A.Arun kumar, the learned counsel takes notice for the respondent/Insurance Company. With the consent of the learned counsel for both side, the Civil revision petition itself has been taken up for final disposal.

2 According to the petitioner, the petitioner has filed M.C.O.P.SR No.8203 of 2016 before the Special District Judge, Salem for compensation. The tribunal has returned the O.P. for the reason that the first respondent is not residing at Salem and the Policy also not issued by the office of the second respondent. Hence, the M.C.O.P.SR No.8203 of 2016 filed by the petitioner was returned by the tribunal on the ground of lack of jurisdiction to entertain the O.P. Challenging the aforesaid return by the tribunal, the petitioner has filed the present Civil revision petition before this Court.

3 According to the learned counsel for the petitioner, the petitioner is residing at Omalur which is approximately about 20 K.M. from Salem. The office of the second respondent is at Salem. The learned counsel for the petitioner relied on the decision of the Hon'ble Supreme Court in **MALATI SARDAR Vs. NATIONAL INSURANCE COMPANY LTD. AND OTHERS [(2016) 3 SCC 43]** to state that no bar to claim petition being filed outside jurisdiction of the Insurance Company. In the said judgment, the Hon'ble Supreme Court has held as under:

"16. The provision in question, in the present case, is a benevolent provision for the victims of accidents of negligent driving. The provision for territorial jurisdiction has to be interpreted consistent with the object of facilitating remedies for the victims of

accidents. Hypertechnical approach in such matters can hardly be appreciated. There is no bar to a claim petition being filed at a place where the insurance company, which is the main contesting party in such cases, has its business. In such cases, there is no prejudice to any party. There is no failure of justice. Moreover, in view of categorical decision of this Court in *Mantoo Sarkar* [*Mantoo Sarkar vs. Oriental Insurance Co. Ltd.*, (2009) 2 SCC 244 : (2009) 1 SCC (Civ) 482 : (2009) 1 SCC (Cri) 738] , contrary view taken by the High Court cannot be sustained. The High Court failed to notice the provision of Section 21 CPC."

In the light of the aforesaid judgment of the Hon'ble Supreme Court, there is no bar to the claim petition being filed outside jurisdiction of the Insurance Company.

4 Per contra, the learned counsel appearing for the respondent/ Insurance Company would submit that the policy was issued by the Erode branch and the petitioner is residing at Omalur. Therefore, the court below has rightly returned the papers.

5 Heard the learned counsel for the petitioner and the learned counsel for the respondent/Insurance Company and perused the materials available on record.

D.KRISHNAKUMAR,J.

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6 Considering the fact that the Office of the second respondent/Insurance Company is situated at Salem, no prejudice would be caused to the respondent, if the claim petition is entertained by the Special District Court, Salem and in the light of the decision of the Hon'ble Supreme Court cited supra, the petitioner is permitted to represent the O.P. papers in M.C.O.P.SR No.8203 of 2016 before the Special District Court, Salem within a period of two weeks from the date of receipt of a copy of this order. In the event of filing the aforesaid M.C.O.P.SR No.8203 of 2016 and if it is in order, the court below is directed to number the O.P. and proceed in accordance with law.

In the result, the Civil revision petition stands allowed with the above directions. No costs.

24.01.2018

Index: Yes/No
Internet:Yes/No
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Note: Registry is directed to return the original papers to the petitioner
To
The Special District Judge, Salem

C.R.P.(PD) No.2674 of 2017



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