

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP(NPD).No.231 of 2018
and CMP.No.1336 of 2018

Viswanathan

.. Petitioner

Vs

1.M.Adhikesavan
2.The United India Ins.Co.Ltd.,
Motor III Party Claims Office,
No.38, Anna Salai,
Chennai-2

.. Respondents

PRAYER

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decree dated 29.11.2017 passed in IA.No.486 of 2017 in MCOP.No.476 of 2005 on the file of MACT Additional District Judge-II, Poonamallee at Thiruvallur.

For Petitioner : Mr.V.Manisekaran

ORDER

According to the revision petitioner, the revision petitioner

has filed a petition in MCOP.No.476 of 2005 before Motor Accidents Claims Tribunal / Additional District Court-II, Poonamallee claiming for compensation. In the aforesaid OP, the revision petitioner has filed an application in IA.No.486 of 2017 to allow the petitioner to examine the Doctor of his choice and mark the Disability Certificate issued by him. According to the revision petitioner, one Dr.V.R.Subramaniam, Ortho Specialist who is a qualified expert witness who issued the disability certificate. Therefore, the revision petitioner sought for the examination of aforesaid doctor in the MCOP. According to the revision petitioner, a Division Bench of this Court has held in CMA.No.2380 of 2015 and 428 of 2016 dated 25.11.2016 in paragraph 13 (2) of the Judgment is held as follows.

"13.2.In so far as the pending and part heard cases, where evidence with regard to permanent disability has already been recorded, and the matter is otherwise ripe for hearing, the direction issued for referring the matter to the Medical Board would not apply."

2. In paragraph 14 and 15, this Court has held as follows.

"14. Before we conclude, we may also make it clear that the directions contained in the two judgments of this Court, were issued, keeping in mind the best interests of the parties at hand. While the concern of the court was to do away with the situation, which was rampant, i.e., the production of doctors, who were stock witnesses, for the purpose of placing evidence on record with regard to the disability suffered, the court was also concerned that the compensation awarded by the Tribunals, should reach the beneficiaries directly, keeping in mind, that none of the procedures it chose to prescribe should operate in a manner, which would either create a logjam or, delay the adjudication of claims.

15. Therefore, while directions have been issued to the Tribunals to refer the matter to the Medical Boards, the Tribunals, will bear in mind, that, if the witnesses produced by the claimants are credible and the Presiding Officers are satisfied that the matter ought not to be referred to the Medical Boards, then,

they should proceed in the matter based on the appreciation of the materials placed before them."

3. The court has given the reason that the aforesaid Medical Officer has already appeared in several cases. Therefore, in the light of the Division Bench Order, the said application was rejected by the court below. Considering the facts and decision cited above, it is the discretionary power of the Tribunal to refer the matter to the Tribunal. In the present case, the Tribunal has given reason and the application of the revision petitioner was rejected. This Court is also of the view that the discretionary power is vested with the Tribunal and in the interest of justice, the Tribunal has rejected the application. Therefore, there is no warrant to interfere with the orders passed by the court below. There is no error or illegality in the order passed by the court below. Hence, the order of the court below is confirmed and consequently, the Civil Revision Petition fails and same is liable to be dismissed.

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4. The learned counsel for the revision petitioner request this Court to issue direction to the court below to dispose of the above MCOP within the time frame as may be fixed by this Court.

5. On the request of the learned counsel for the revision petitioner, this court is inclined to direct the MACT Additional District Judge-II, Poonam allee at Thiruvallur to dispose of the MCOP.No.476 of 2005 as expeditiously as possible preferably within the period of five months from the date of receipt of a copy of this Order.

6. The Civil Revision Petition is dismissed with above direction. Consequently, the connected miscellaneous petition is closed. No costs.

24.01.2018

Speaking/Non-Speaking order
Index :Yes/No
Internet:Yes/No
lok



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D. KRISHNAKUMAR J.,

lok

To

The MACT Additional District Judge-II,
Poonamallee at Thiruvallur.



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