

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.12.2018

CORAM
THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.268 of 2018
and C.M.P.No.6763 of 2018

Cholamandalam MS General Insurance
Company Limited,
Regd. & Head Office,
Dare House, 2nd Floor,
No.2, NSC Bose Road,
Chennai - 600 001.

..Petitioner

versus

1.Y.Vijayakumari

2.Arunthathi [Minor]

3.Hasini [Minor]

4.Hariharan [Minor]

[Respondents 2 to 4 Minors represented
by their Guardian and mother

Y.Vijayakumari]

All are residing at

Eswaran Koil Street,

Arasanimangalam Village & Post,

Uthiramerur Taluk, Kancheepuram.

5.S.Murugan

6.Hari

7.Kumar

..Respondents

[R-7 impleaded as per order

dated 20.04.2018 made in

C.M.P.No.7764/2018 in Tr.CMP.No.268/2018]

Prayer: Petition is filed under Section 24 of C.P.C., to
withdraw M.C.O.P.No.739 of 2016 pending on the file of the Motor
Accidents Claims Tribunal, Kancheepuram and transfer the same to
the file of the Motor Accidents Claims Tribunal, Madurantakam,
to be tried along with the Petition in M.C.O.P.No.98 of 2015
pending on its file.

For Petitioner : M/s.C.Harini
for Mr.N.Vijayaraghavan

For Respondents : No Appearance

O R D E R

This Transfer Civil Miscellaneous Petition has been filed under Section 24 of the Code of Civil Procedure to withdraw M.C.O.P.No.739 of 2016 pending on the file of the Motor Accidents Claims Tribunal, Kancheepuram and transfer the same to the file of the Motor Accidents Claims Tribunal, Madurantakam, to be tried along with the Petition in M.C.O.P.No.98 of 2015 pending on its file.

2. The petitioner is the Insurance Company. All the respondents have filed a petition under Section 166 of the Motor Vehicles Act, in which, they are claiming compensation. The said petition is now pending with the Motor Accidents Claims Tribunal, Kancheepuram in M.C.O.P.No.739 of 2016. In the said circumstances, the petitioner has approached this Court with this present petition, seeking the relief to transfer the above said M.C.O.P. to the file of the Motor Accidents Claims Tribunal, Madurantakam, for joint trial along with M.C.O.P.No.98 of 2015.

3. According to the petitioner, the seventh respondent in this petition has filed one another claim petition for the same accident, which is now pending with the Motor Accidents Claims Tribunal, Madurantakam in M.C.O.P.No.98 of 2015. In both the petitions, the parties to the proceedings and the alleged accident are one and the same. Unless both the O.Ps. are heard together and decided jointly, there will be a chance for coming out the conflicting decision. In the said circumstances, the petitioner has come out with the present Transfer Civil Miscellaneous Petition for the relief stated earlier in the first paragraph of this order.

4. In respect to the respondents, despite of several notices received, all the respondents have not appeared before this Court either in person or through counsel. For the above said reason, this Court on 13.12.2018 directed the registry to post the matter under the caption "for orders". Today [20.12.2018], even after printing the name of the parties in the cause list, there is no representation on behalf of them either in person or through counsel.

5. Heard the learned counsel appearing for the petitioner and also perused the materials available on record.

6. Now, considering the prayer sought for by the petitioner, it is true that the accident pertaining to both claim petitions viz. M.C.O.P.No.739 of 2016 and M.C.O.P.No.98 of 2015 are one and the same and hence, for disposing the both claim petitions ordering for joint trial or simultaneous trial is very much helpful to the parties in participating the court proceedings. Further, if the said petitions are tried in

different courts there may be a chance for coming out the conflicting decision. That apart, the distance between Kancheepuram and Madurantakam is nearly 50 kms. Further, non appearance of the respondents would show that they are not having any objection to allow this petition.

7. In the light of the above discussion, the Transfer Civil Miscellaneous Petition is allowed. Accordingly, the petition in M.C.O.P.No.739 of 2016 is ordered to be withdrawn from the file of the Motor Accidents Claims Tribunal, Kancheepuram and transferred to the file of the Motor Accidents Claims Tribunal, Madurantakam. It is left open to the Motor Accidents Claims Tribunal to decide for joint trial or for simultaneous trial. The Motor Accidents Claims Tribunal, Kancheepuram, is directed to transmit all the records pertaining to M.C.O.P.No.739 of 2016 to the file of the Motor Accidents Claims Tribunal, Madurantakam, within a period of two weeks from the date of receipt of a copy of this order. On receipt of records, the learned Motor Accident Claims Tribunal, Madurantakam, is directed to dispose of the case as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sri

To

1.The Motor Accidents Claims Tribunal,
Kancheepuram.

2.The Motor Accidents Claims Tribunal,
Madurantakam.

+1cc to Mr.N.Vijayaraghavan, Advocate, S.R.No.89874

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RR(CO)
RRS(30/01/2019)