



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P.(PD)(MD)No.444 of 2018

1.A.Mymoon Bevi

2.M.Ashma

... Revision Petitioners/Petitioners

Vs.

1.Y.Abdul Hassan

2.National Insurance Co., Ltd.,
Represented through its Manager,
2-A, Thirumukkulam,
North Street,
Tallakulam,
Madurai-625 002.

...Respondents/Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order of return, dated 14.03.2017 in Unnumbered M.C.O.P.No. 2016 and consequently direct the learned trial Court to take up the petition for hearing on the file of the learned Motor Accident Claims Tribunal, Madurai.

For Petitioners : Mr.S.M.A.Jinnah
For Respondents : No appearance

O R D E R

The petitioners, who are the claimants, have filed a claim petition against the respondents, claiming compensation of Rs.10,00,000/- before the Motor Accident Claims Tribunal, Madurai. The said application was returned on 14.03.2017 stating that the petitioners have not produced the original documents regarding their permanent residential addresses, through the recognised Government Identity Cards and in the absence of any such proof for residence, the MCOP application need not be numbered.

2.Challenging the said order of return, the petitioners have filed the present Civil Revision Petition.

3.The learned counsel appearing for the petitioners has produced a copy of the order passed by this Court in C.R.P(MD) No.1968 of 2016, dated 03.10.2016. The relevant portion of the said order is extracted hereunder:-

(2) **TN MAC 58**, in paragraph Nos.14, 15 and 16, it is stated as follows:

"14. The Hon'ble Apex Court held that the Tribunal has Territorial jurisdiction based on residence of the claimants. The residence of a person would depend upon facts of given case. When the Tribunal has jurisdiction to entertain a claim petition, the claim cannot be rejected on the question of lack of territorial jurisdiction unless it is shown that prejudice and hardship caused to the insurance company. The liability of Insurance company is to reimburse amount payable by the insured owner of vehicle. It is only in exceptional cases as provided under Section 170 of the M.V. Act, the Insurance Company can defend the claim.

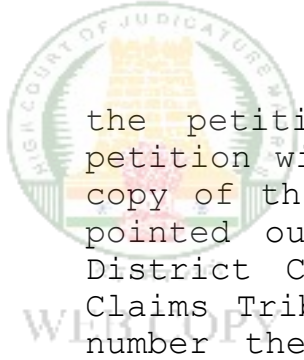
15. In Paragraph 14 of the judgment reported in Mantoo Sarkar v. Oriental Insurance Co. Ltd. and another, 2009 (1) TN MAC 68 (SC) [cited supra], the Hon'le Apex Court held that claim petition can be filed at the place where the insurance company is having its business. Paragraph 14 of the judgment relied on by the learned counsel for the respondents is squarely applicable to the facts of the present case.

16. The petitioner is alleging that for lack of Staff, they cannot properly contest the claim of the respondents and due to pendency of large number of claim petitions at Madurai and it will take long time to dispose the claim petition, which will prejudice to the respondents also, is not a reason for holding that the petitioner is put to hardship. The claim of the petitioner that the claim petition is not maintainable against the administrative office, is not acceptable. It is not the case of the petitioner that they are not having any Branch Office at Madurai. In view of residence of respondents at Madurai and Branch Office of the petitioner at Madurai, the Tribunal has Territorial Jurisdiction to entertain the claim petition filed by the respondents."

6. Apart from that, the petitioner has also produced the proof of residential address in respect of the rental agreement entered into between the petitioner and the landlord.

7. In the light of the aforesaid decision of this Court, the impugned order passed by the Motor Accident Claims Tribunal, Madurai, dated 14.03.2017 is not sustainable in law and the same is liable to be set aside. Therefore, this Court is inclined to pass the following order:

8. Accordingly, the Civil Revision Petition is allowed and the impugned order, dated 14.03.2017 passed by the Motor Accident Claims Tribunal / Principal District Judge, Madurai is set aside and



the petitioners/claimants are directed to re-present the claim petition within a period of two weeks from the date of receipt of a copy of this order, subject to the compliance of the other defects pointed out by the Motor Accident Claims Tribunal / Principal District Court, Madurai. If it is in order, the Motor Accident Claims Tribunal / Principal District Court, Madurai is directed to number the O.P., within a period of two weeks thereafter and proceed with the same in accordance with law. No Costs.

Sd/-
Assistant Registrar (Crl.Side)

/True Copy/

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal-cum-
Principal District Judge, Madurai.

+ 1 CC TO Mr.S.M.A.JINNAH, ADVOCATE IN SR No.69318

AM

RJ/TE/SAR-3 : 12/07/2018 : 3P/3C

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