



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2018

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD)No.2019 of 2017 (PD)

and

C.M.P.(MD).No.10109 of 2017

The Branch Manager,
Iffco-Tokio General Insurance Company Ltd.,
having its Branch Office at
No.82, Preetham Plaza First Floor,
Chandrakandhi Nagar,
Madurai.

.. Revision Petitioner /
2nd respondent / 2nd respondent

Vs.

1.Jeyalakshmi (in coma)
rep. by his next friend and
natural guardian and husband,
Subramanian

.. 1st respondent /Petitioner /
Petitioner

2.Selvakumar

... 2nd respondent /
1st respondent / 1st respondent

PRAYER: Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and executable order passed in I.A.No.32 of 2017 in M.C.O.P.No.174 of 2012, dated 31.07.2017, by the learned Additional Subordinate Judge, Karur.

For petitioner : Mr.V.Sakthivel

For 1st respondent : Mr.E.K.Kumaresan

For 2nd respondent : No appearance

ORDER

Challenging the order passed by the learned Additional Subordinate Judge, Karur, in I.A.No.32 of 2017 in M.C.O.P.No.174 of 2012, dated 31.07.2017, this civil revision petition has been filed by the revision petitioner / Insurance company.

<https://hcservices.ecourts.gov.in/hcservices/>

2. For the injuries sustained by the first respondent /



claimant in a road accident, the husband of the first respondent / claimant, on behalf of the first respondent, has filed the claim petition. After completion of evidence and arguments, the trial Court itself *suo motu* reopened the case for clarification regarding the disability sustained by the first respondent / claimant ie., whether it is permanent disability or partial disability. In order to clarify the above position, the first respondent / claimant has filed an interlocutory application in I.A.No.32 of 2017, seeking permission of the Court to recall PW2, who issued the disability certificate, for the purpose of further examination on the side of the first respondent / claimant. The learned Judge, after hearing both sides, allowed the said interlocutory application, against which the present civil revision petition has been filed by the Insurance Company.

3. The learned counsel appearing for the revision petitioner / Insurance company would submit that instead of allowing the said interlocutory application, the learned Judge ought to have come to the conclusion, based on the oral and documentary evidence available before him. But, the trial Judge has failed to do so and hence, the order impugned in this petition is liable to be set aside.

4. The learned counsel appearing for the first respondent / petitioner would submit that since PW2 is the doctor, who issued the disability certificate, he only could say about the disability of the first respondent / claimant. He would further submit that the learned Judge, after hearing both sides, has rightly allowed the interlocutory application filed by the first respondent / claimant and recalled PW2. Thus, he prays for dismissal of this civil revision petition.

5. There is no representation for the 2nd respondent.

6. Heard the learned counsel appearing for the revision petitioner / Insurance Company and the learned counsel appearing for the first respondent / claimant and perused the records carefully.

7. The clarification sought for by the learned Judge is as to whether the disability of the first respondent / claimant is permanent disability or partial disability. It is the duty of the parties to clarify the same, for which the first respondent / claimant has filed I.A.No.32 of 2017 to recall PW2 for further examination. It is not the case of the revision petitioner / Insurance company that the said position has already been clarified by the doctor (PW2), who issued the disability certificate. The Court below has rightly allowed the said interlocutory application. There is no merit in the present petition. However, the main grievance of the revision petitioner / Insurance Company is that the matter is delayed further.



8. Considering the above grievance of the revision petitioner / Insurance Company, the learned Additional Subordinate Judge, Karur is directed to dispose of M.C.O.P.No.174 of 2012 as early as possible, preferably within a period of two months from the date of receipt of copy of this order.

9. With the above direction, this civil revision petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Additional Subordinate Judge, Karur.

+ 1 cc TO Mr.V.Sakthivel , Advocate in SR No. 44220

gcg

AE/MR/SAR3/21.02.2018/3P/3C

C.R.P. (MD)No.2019 of 2017 (PD)
25.01.2018