



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.R.P. (MD) .No.78 of 2016

and

C.M.P. (MD) No.309 of 2016

M/s.National Insurance Company Ltd.,
Tirunelveli.

... Petitioner/Petitioner/
Respondent

Vs.

S.Sakthivel

... Respondent/Respondent/
Claimant

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records relates to I.A.No.345 of 2013 in M.C.O.P.No.455 of 2013 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge, Tirunelveli, and to set aside the same.

For Petitioner	: Mr.D.Sivaraman
For Respondent	: No appearance.

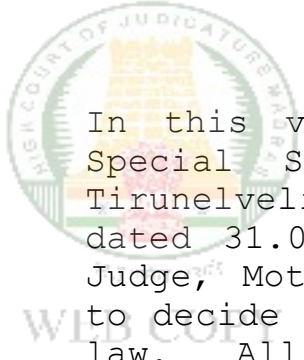
O R D E R

The respondent herein filed M.C.O.P.No.455 of 2013 on the file of the learned Special Subordinate Judge, Motor Accidents Claims Tribunal, Tirunelveli.

2. In the said claim proceedings, the Revision petitioner herein filed I.A.No.345 of 2013 calling upon the Tribunal to frame the issue of maintainability as a preliminary issue. While dismissing the said application, the Tribunal had gone into the merits of the matter. Aggrieved by the same, the Civil Revision petition has been filed.

3. This Court is of the view that the approach of the Tribunal is not correct. The said Interlocutory application filed by the Revision petitioner was to call upon the Tribunal to frame the issue of maintainability as a preliminary issue. That should have been done first. Instead of doing so, the Tribunal proceeded to hold that the claim petition is maintainable. The findings given in the impugned order should have been rendered only after framing the issue or after conducting a full-fledged trial.

4. As rightly pointed out by the learned counsel appearing for the Revision petitioner, the Tribunal appears to have pre-determined the entitlement of the claimant to claim compensation.



In this view of the matter, the order passed by the learned Special Subordinate Judge, Motor Accidents Claims Tribunal, Tirunelveli, in I.A.No.345 of 2013 in M.C.O.P.No.455 of 2013, dated 31.07.2014, is set aside. The learned Special Subordinate Judge, Motor Accidents Claims Tribunal, Tirunelveli, is directed to decide M.C.O.P.No.455 of 2013 on merits and in accordance with law. All the issues including the maintainability of M.C.O.P.No.455 of 2013 are left open.

5. The Civil Revision petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The Special Subordinate Judge,
Motor Accidents Claims Tribunal, Tirunelveli.

+1cc to Mr.D.Sivaraman, Advocate Sr.No.79905

PMU

VB/SKN/SAR1/12.09.2018/2P/3C

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