

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr. C.M.P. No.542 of 2019
and C.M.P. No.15298 of 2019

Sivasankari

... Petitioner

-vs-

1.K.R.Eswaran

2.M/s.National Insurance Company Limited,
No.536, Sathyamangalam Road,
Near L.N.Hospital,
Gandhipuram,
Coimbatore-641 012.

... Respondents

Prayer: Petition filed under Section 24 of C.P.C to withdraw and transfer M.C.O.P. No.769 of 2017 pending on the file of Principal District Judge, Coimbatore to the file of Sub Court, Vaniyambadi.

For Petitioner : Mr.F.Terry Chella Raja

For Respondents: R1-Notice dispensed with
vide Batta SR.21779 of 2019

Ms.N.B.Surekha for R2

O R D E R

The Transfer C.M.P. has been filed to transfer the M.C.O.P. No.769 of 2017 pending on the file of the Principal District Judge, Coimbatore to the file of the Sub Court, Vaniyambadi.

2.Learned counsel appearing for the petitioner would submit that while the petitioner was riding as a pillion rider in the motor cycle, driven by the petitioner's husband Periyasamy, the first respondent driven the car in a rash and negligent manner and dashed against the said motor cycle and thereby caused grievous injuries to the petitioner. Therefore, the petitioner filed the above Claim Petition for compensation and during the pendency of the proceedings before the Claims Tribunal, the

petitioner's husband died on 20.12.2018. Thereafter, the petitioner has been residing in her native place at Vaniyambadi. As the petitioner has to take care of her two children, who are studying in IX and I std. at Vaniyambadi, she finds it difficult to attend the proceedings before the learned Principal District Judge, Coimbatore, which is about 350 kms. from her residence. Learned counsel appearing for the petitioner would further submit that as the respondents have not even bothered to appear before the said Court, the matter was posted for exparte evidence on 22.08.2019. Therefore, if the M.C.O.P. No.769 of 2017 is transferred to the file of the Sub Court, Vaniyambadi, no prejudice will be caused to the respondents.

3.Learned counsel appearing for the second respondent would submit that since the petitioner has come to this Court seeking transfer, the interest portion can be excluded.

4.Opposing the same, learned counsel appearing for the petitioner would submit that when the respondents did not even bother to appear before the Principal District Court, Coimbatore, they were set exparte and therefore, they cannot plead that they are entitled to get the benefit of exclusion of interest. I also find merits thereof.

5.As the respondents have not chosen to appear before the Principal District Judge, Coimbatore, the matter was posted on 22.08.2019 setting them exparte. Secondly, after the death of the petitioner's husband, the petitioner has shifted her residence from Coimbatore to Vaniyambadi, where her two daughters are pursuing their education. Therefore, it is a fit case for transfer. Accordingly, the Tr. C.M.P. is allowed and the M.C.O.P. No.769 of 2017 pending on the file of the Principal District Judge, Coimbatore is withdrawn and transferred to the file of the Sub Court, Vaniyambadi.

6.The learned Sub Judge, Vaniyambadi is directed to take up the case and dispose of the same within a period of four months from the date of receipt of a copy of this order in view of the grievous injury sustained by the petitioner, in the manner known to law. No costs. Consequently, C.M.P. No.15298 of 2019 is closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

To

1. The Principal District Judge, Coimbatore
Kumbakonam.

2.The Subordinate Judge, Vaniyambadi
The Subordinate Court, Vaniyambadi.

+1 CC to M/s.N.B. Surekha, Advocate sr 73749
+1 CC to Ms.M.Malar, Advocate sr 72837.

Tr. C.M.P. No.542 of 2019
and C.M.P. No.15298 of 2019

LN(CO)
SP(27/09/2019)