

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.670 of 2018 and
CMP.No.3450 of 2018

Kumaravel

..Petitioner

Vs.

1.Bajaj Allianz General Insurance
Company Limited,
MRV Complex No.5,
Second Line Beach Road,
Chennai – 600 001
2.K.Arunachalam

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order and decree dated 19.02.2016 passed in MP.No.9393 of 2014 in MCOP.No.443 of 2011 on the file of the Motor Accident Claims Tribunal, Chennai (IV Court of Small Causes, Chennai).

For Petitioner

: M/s.A.Subadra
for Mr.V.Velu

For Respondents

For R1

: Mr.J.Michael Visuvasam

R2

: No appearance

ORDER

This Civil Revision Petition is filed against the order and decree dated 19.02.2016 passed in MP.No.9393 of 2014 in MCOP.No.443 of 2011 on the file of the Motor Accident Claims Tribunal, Chennai (IV Court of Small Causes, Chennai), thereby directing the petitioner to appear before the medical board to assess his disability.

2. The petitioner is the claimant and the respondents are the respondents in the claim petition. The petitioner filed claim petition claiming compensation for the injuries sustained by him in an accident. The petitioner examined PW1 and 2. PW2 is the doctor who assessed the disability of the petitioner herein as 90%. After cross examination of PW2 by the first respondent herein, they filed petition for direction directing the claimant to appear before the medical board to assess the disability.

3. The learned counsel for the petitioner would submit that already PW2 who examined the petitioner and assessed his disability as 90%. After elaborate cross examination by the first respondent, only to fill up the lacuna, the first respondent filed petition to reassess the disability of the petitioner herein, and it is not permissible under

law. After order passed by the Division Bench of this Court referring all the claimants before the medical board to assess the disability, taking advantage of the same, the first respondent filed petition for direction directing the claimant to appear before the medical board for true and correct assessment of the disablement.

4. It is seen that the petitioner met with an accident and he sustained fracture in both bones of both legs, fracture hand fracture, fracture in right wrist and multiple grievous injuries all over the body. He had taken treatment in the MIOT Hospital, Chennai from 19.11.2010 to 02.12.2010 and thereafter continued his treatment in the private hospital. He had undergone three surgeries so far. Admittedly, the person who treated him was not assessed his disablement. After examining the petitioner, the PW2 assessed his disability at 90%. Therefore, after cross examining PW2, the first respondent filed petition for direction directing the petitioner to appear before the medical board at Government General Hospital, Chennai for true and correct assessment of his disablement.

5. The Hon'ble Division Bench of this Court passed order and directed all the Motor Accident Claims Tribunals to refer the claimants before the medical board to assess their true and correct disablement.

In view of the same, the court below rightly allowed the petition and referred the petitioner to appear before the medical board for true and correct assessment of the disablement. Therefore, this Court finds no infirmity or illegality in the order passed by the Court below.

6. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

27.07.2021

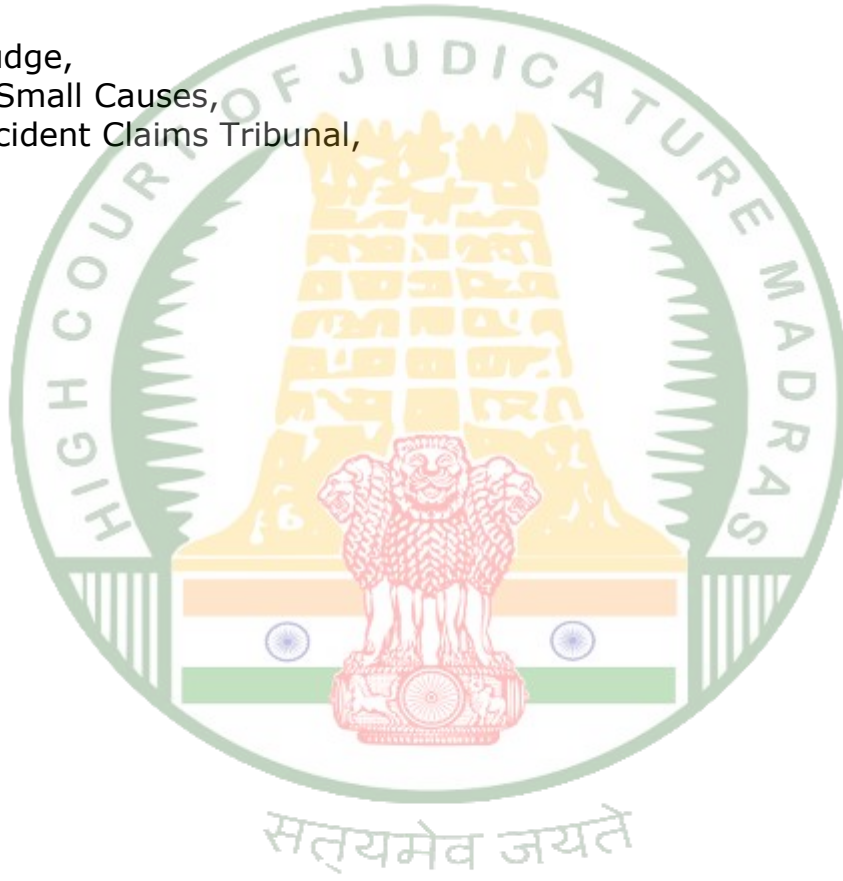
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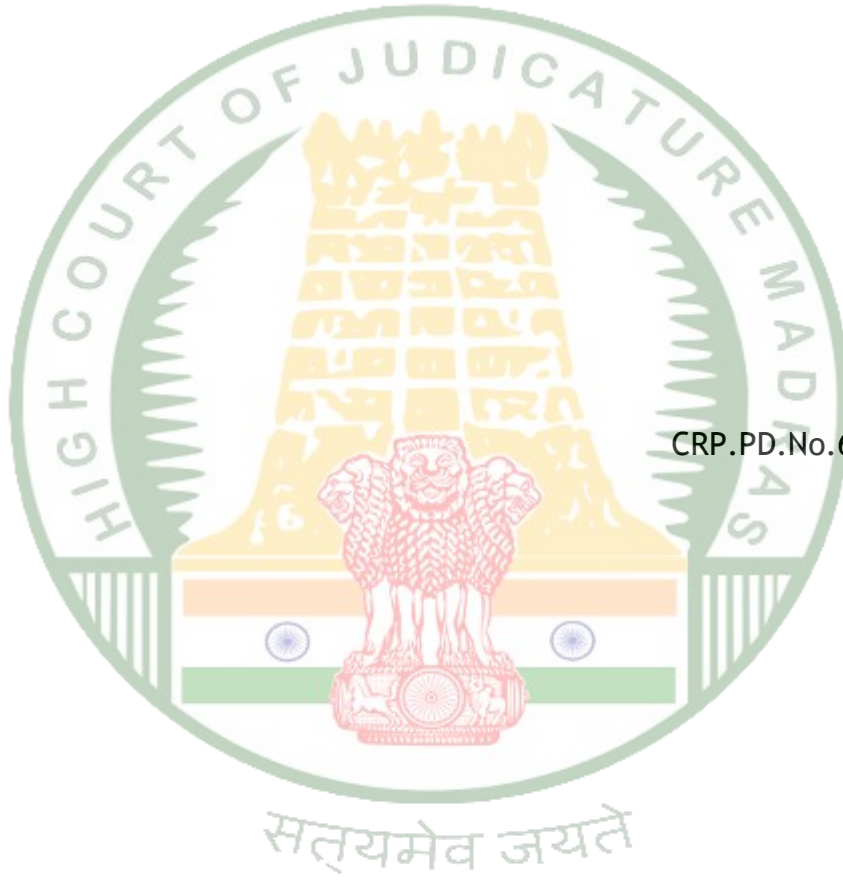
The IV Judge,
Court of Small Causes,
Motor Accident Claims Tribunal,
Chennai



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G.K.ILANTHIRAIYAN,J.

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CRP.PD.No.670 of 2018

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