

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM

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

CRP.PD.No.70 of 2018
and CMP.No.299 of 2018

Siva

...Petitioner

Vs.

1. B.Muthu
(R1 – Already set Exparte in Lower Court
R1- Notice may be dispense with)

2. Iffco Tokio Gen. Ins. Co. Ltd.,
Motor III Party Claims Office,
No. 128, III Floor, Habibullah Road,
T.Nagar, Chennai – 17.

...Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decretal Order dated 11.08.2017 made in M.P.No.1111 of 2017 in M.C.O.P No 92 of 2015 on the file of IV Court of Small Causes, Chennai and allow the Civil Revision Petition.

For Petitioner : Mr.V.Manisekaran

For Respondents : Exparte – R1
: M/s. Michael Visuvasam – For R2

ORDER

This Civil Revision Petition is filed to set aside the fair and Decreetal Order dated 11.08.2017 made in M.P.No.1111 of 2017 in MCOP No 92 of 2015 on the file of IV, Court of Small Causes, Chennai, thereby allowing the petition to refer the petitioner to the Medical Board for assessment of permanent disability.

2. The petitioner is the claimant and the respondents are respondents in the claim petition. The petitioner had filed a claim petition in M.C.O.P.No.92 of 2015 before the Motor Accidents Claims Tribunal, Poonamallee claiming compensation of Rs.28 lakhs for the injuries sustained by him due to accident which took place on 10.09.2014. When the petitioner was traveling as a pillion rider in a motor cycle, a van which was driven by its driver in rash and negligent manner from the opposite direction and hit against the motorcycle. Due to the said accident, the petitioner sustained injuries. While pending claim petition, the 2nd respondent who is the Insurer of the vehicle owned by the 1st respondent herein, filed a petition in M.P.No.1111 of 2017 to refer the petitioner to the Medical Board for assessment of his disability and the same was allowed by order dated 11.08.2017. Against which, the present revision has been filed.

3. This Court is of the opinion, as directed by the Hon'ble Division Bench of this Court in CMA No.2380 of 2015 dated 25.11.2016, the Motor Accident Claims Tribunal has to assess the disability of the claimant and the claimant shall be referred before the Medical Board. The intention behind the entire direction is to avoid examination of stock witnesses. Therefore, the injured has to be referred to the Medical Board and the disability should be assessed only by the Medical Board. As such, the Court below has rightly allowed the petition filed by the 2nd respondent here. As such, this Courts finds no infirmity or illegality in the order passed by the trial Court.

5. In view of the above, the present civil revision petition stands dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

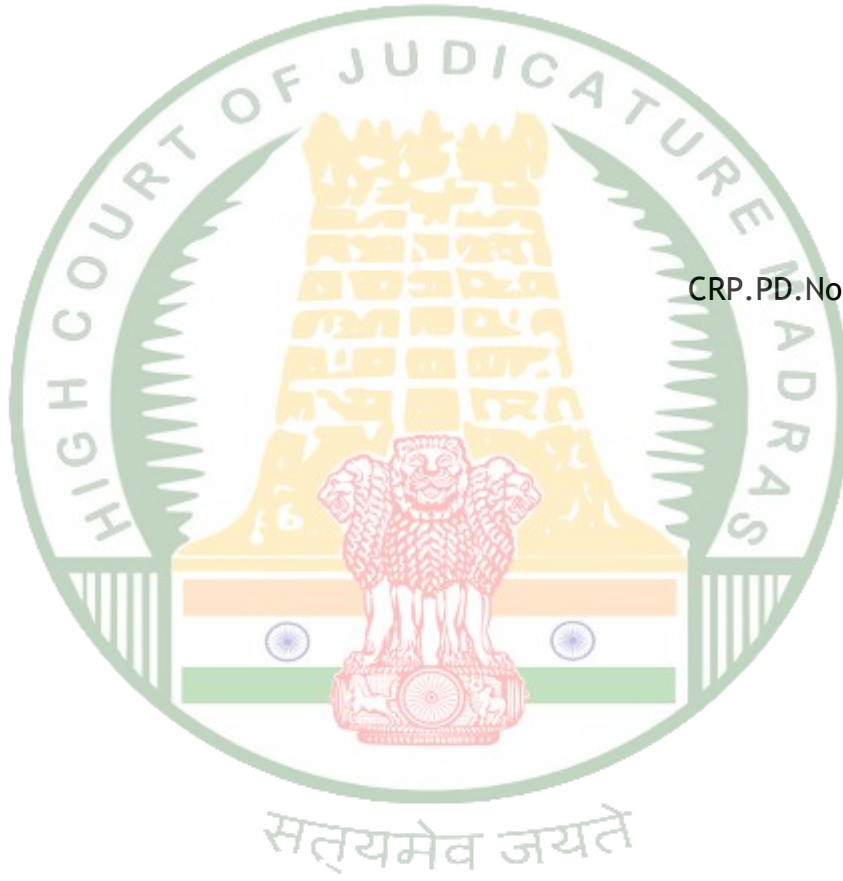
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22.06.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
ksa-2
To
Motor Accident Claims Tribunal
(IV Court of Small Causes) Chennai.

G.K.ILANTHIRAIYAN,J.

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