

IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATE: 13.08.2021

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THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P.(NPD).No.1608 of 2021

and C.M.P.No.12475 of 2021

1.Valarmathi

2.Minor Mukesh

3.Minor Jagan

4.Pachiyammal

5.Jayavel

Minors 2 and 3 represented by

Mother and natural guardian-Valarmathi

...Petitioners

Vs.

1.Palanisamy

2.Shriram General Insurance Company Limited

No.8, RIICO Industrial Area, Sita Pura

Jaipur, Rajasthan-302 022.

...Respondents

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Docket Order dated 07.04.2021 in MCOP.No.148 of 2019 on the file of the Special Sub-Court (MACT), Krishnagiri.

For Petitioners : Mr.M.Selvam

ORDER

This Civil Revision Petition has been filed to set aside the Docket Order dated 07.04.2021 in MCOP.No.148 of 2019 on the file of the Special Sub-Court (MACT), Krishnagiri.

2.Petitioners herein have filed the MCOP No.148 of 2019 under Section 165 (1) and 166 (1) of M.C.Act, 1988, as against the respondents to grant a compensation of Rs.1 Crore. During trial, the learned Special Judge (MACT), Krishnagiri has passed the following order on 07.04.2021:-

“Dr.Veeramani present. He has come to depose about the letter pad letter issued by him on 03.07.2019. He has not produced any treatment records with him. R2 has objected in examining the said Doctor, since he has not produced any records to show that he has treated the deceased Gnanapandithan. When questioned by the Court, the Doctor replied that he has no history of medical treatment given to the deceased. Based on the letter issued in his letter pad alone the petitioner has summoned Dr.Veeramani to depose before this Court. Without proper case records. Dr.Veeramani cannot depose before this Court. Further, Dr.Veeramani has admitted that he has no medical records of the deceased. Hence this Court hold that Dr.Veeramani could not be examined, for further P.Ws., call

on 27.04.2021.”

3.The learned counsel for the petitioners would submit that the Dr.Veeramani, gave treatment to the deceased-Gnanapandithan, who was suffered grievous injuries due to the road accident, which took place on 11.04.2018, gave certificate and came forward to give evidence in respect of the treatment given by him to the deceased. However, the learned trial Judge did not permit the Doctor to give his evidence, on the ground that the Doctor did not produce the medical records, in support of his evidence. If the Doctor is not examined, the petitioners would not be in a position to appraise the Court, with regard to the nature of the treatment, duration of treatment suffered by the deceased, which will ultimately affect the quantum and compensation. Therefore, he prays to set aside the Docket Order dated 07.04.2021 passed by the learned Special Sub Court (MACT), Krishnagiri.

4.Perusal of the aforesaid order of the learned Special Judge (MACT), Krishnagiri, shows that the examination of Dr.Veeramani, was objected by the 2nd respondent-Shriram General Insurance Company Limited, on the ground that the Doctor has not produced any records to

show that he has treated the deceased for the injuries suffered in the accident, which took place on 11.04.2018. When the learned Judge questioned the Doctor, he replied that he has no history of medical treatment given to the deceased, instead he produced a certificate in his letter pad and on the basis of the certificate, he wanted to give his evidence before the Court below. That was the reason for not permitting the Doctor to give evidence.

5.No doubt, the Doctor, who gave treatment to the deceased is expected and he is required to maintain treatment records. Without any medical records, he cannot come and give evidence, just by producing certificate in his letter pad. Docket order dated 07.04.2021 passed by the learned Special Judge, in this regard cannot be considered as perverse. However, this Court is of the considered view, that instead of refusing to examine the Doctor, the trial Court may examine the Dr.Veeramani as witness and at the time of disposal of the case, can give a finding with regard to acceptability of his evidence, in the absence of any medical records to show the treatment given to the injured.

6.Therefore, this Court sets aside the Docket order dated

07.04.2021 passed by the learned Special Judge (MACT), Krishnagiri.

Further the learned Special Judge (MACT), Krishnagiri is directed to examine the Dr.Veeramani, on the side of the petitioners and decide the acceptability of his evidence only at the time of disposal of the case in MCOP No.148 of 2019.

7.Accordingly, the Docket order dated 07.04.2021 passed by the learned Special Judge (MACT), Krishnagiri, is hereby set aside and the Civil Revision Petition is disposed of. No order as to costs. Consequently connected miscellaneous petition is closed.

13.08.2021

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Speaking order/Non-speaking order

Index: Yes/No

Internet: Yes/No

To

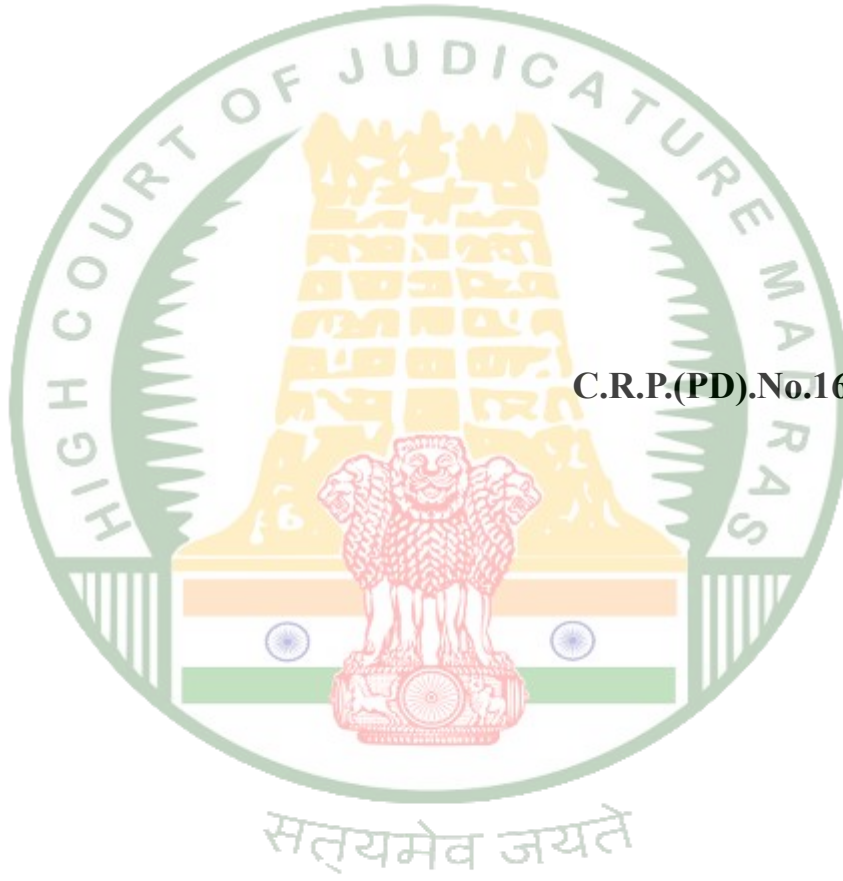
The Special Judge (MACT), Krishnagiri.

Note:Registry is directed to issue order copy on 24.08.2021

G.CHANDRASEKHARAN, J.,

C.R.P.(P.D).No.1608 of 2021

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