



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2021

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THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.R.P. (PD) (MD) .No.905 of 2021

WEB COPY

R.Jaya Ganesan

: Petitioner/ Petitioner

Vs.

1.H.Aswin Kumar

2.The New India Assurance Co.Ltd.,
represented by its Manager,
3/5 Kannbiran Kovil Street,
Pallavaram, Chennai 600 043.

: Respondents/ Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to direct the Motor Accident Claims Tribunal/Sub Court, Vallioor to number the claim petition in unnumbered M.C.O.P.No..... of 2020 (filing No.MCOP/210/2021) (CNR.No.TNTL070001772020).

For Petitioner

: Mr. Vasik Ali,
for Mr.D.Nallathambi.

O R D E R

The Civil Revision Petition is directed against the order of return made in unnumbered M.C.O.P.No..... of 2020, on the file of Motor Accident Claims Tribunal, Vallioor.

2.The revision petitioner has filed the claim petition, claiming compensation of Rs.1,50,000/- for the injuries suffered by him in a motor accident occurred on 30.01.2019, and the Tribunal has returned the claim petition on some grounds, which includes that the petition has not been filed within a period of six months from the date of accident, probably invoking the Amendment Act of 2019.

3.Sub Section 3 of Section 166 of the Motor Vehicles Act 1988, which came into force from 01.07.1989, contemplates the period of limitation for filing the claim petitions. But, subsequently, the said Sub Section 3 was omitted by the Act 53 of 1994, which came into force on 14.11.1994. It is pertinent to note that after omission of Sub Section 3 under Act 53 of 1994, there is no provision prescribing a period of limitation under Section 166 of the Motor Vehicles Act.

4.The Motor Vehicles (Amendment) Act, 2019 was published in the Gazette of India on 09.08.2019. It is necessary to refer Section 1 of the Amendment Act.

<https://hcservices.ecourts.gov.in/hcservices/>



"Section 1 (1) this Act may be called the Motor Vehicles (Amendment) Act 2019.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision."

5.No doubt, Central Government appointed 01.09.2009 as the date on which some of the Sections of the Amendment Act shall come into force. Section 166 of the Motor Vehicles (Amendment) Act, 2019 contains Sub Section 3 contemplating a period of limitation for preferring a claim petition, which was omitted earlier. The Allahabad High Court in **Shailendra Tripathi and another Vs. Dharmendra Yadav and others** reported in **2020 SCC On line ALL 1360**, has specifically held that Sections 50 to 57 of the Motor Vehicles (Amendment) Act, 2019 Act are yet to be notified.

6.The High Court of the Chattisgarh in the case of **Mukesh Patle Vs. Shailendra Verma**, decided on 20.01.2021, has held that Section 53 and some other Sections are yet to be enforced. Similarly, the High Court of Sikkim in **Prethivi Raj Rai v. The Secretary, Sikkim Nationalized Transport Department & Anr (MAC.Appeal No.4 of 2021** dated 23.04.2021) has held that the proposed amendment to Section 166 of the Motor Vehicles Act, which is yet to be enforced would have no effect.

7.It is evident from the records that though the revision petitioner has represented the claim petition by referring the judgment of Alahabad above referred, the Tribunal has again returned the claim petition stating that the previous order of return was not complied with. But, the Tribunal while returning, has not specifically stated that Section 53 of the Motor Vehicles (Amendment) Act, 2019 was notified.

8.The learned counsel for the revision petitioner and other learned counsel appearing in Motor Accident claim cases have in one voice stated that Section 50 to 57 are not yet notified. Considering the above, it is clear that the provisions of Section 53 of the Motor Vehicles (Amendment) Act, 2019 have not been notified and had not come into force, as such the provisions of Section 166 of Motor Vehicles Act as it stood before Amendment Act of 2019, had been enacted would continue to prevail. Consequently, the order of returning the claim petition is not good in law and the same is liable to be set aside.



9. In the result, the Civil Revision Petition is allowed and the order of return dated 29.01.2021, in unnumbered M.C.O.P.No..... of 2020 is set aside and the revision petitioner is directed to re-present the claim petition and on such representation, the Tribunal is directed to take the petition on file, if it is otherwise in order. The Registry is directed to return the original claim petition filed along with this revision to the counsel for the revision petitioner, retaining a copy of the same. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

1. The Motor Accident Claims Tribunal/Sub Court,
Vallioor.

2. The Section Officer, (VR Section)
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-20365[F] dated
28/06/2021)

C.R.P. (PD) (MD) .No.905 of 2021
28.06.2021

KG (CO)

TR(14.07.2021) 3P 5C