



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Tr.C.M.P. (MD) No.354 of 2021

and

C.M.P (MD) No.7168 of 2021

WEB COPY

M.Muthuramalingam

... Petitioner

Vs.

1.R.K.Venkudusamy

2.The Branch manager,
New India Assurance Company Ltd.,
Tiruchengode,
Erode District.

3.Indumathi

... Respondents

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the MCOP.No.111 of 2020 pending on the file of the Motor Accidents Claims Tribunal / Special District Judge, Tiruchirappalli and transfer the same to the file of the Principal District and Motor Accidents Claims Tribunal, Perambalur to try along with the MCOP No.41 of 2015 on the file of the Principal District and Motor Accidents Claims Tribunal, Perambalur.

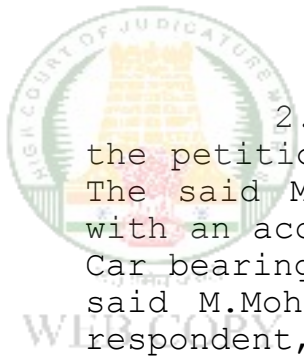
For Petitioner : Mr.M.P.Senthil
for N.Anandakumar

For 2nd Respondent : No Appearance

For 3rd Respondent : Mr.Anwar Sameem

O R D E R

The present Transfer Civil Miscellaneous Petition has been filed to withdraw the case in MCOP.No.111 of 2020 from the file of the Motor Accidents Claims Tribunal / Special District Judge, Tiruchirappalli and to transfer the same to the file of the Principal District and Motor Accidents Claims Tribunal, Perambalur, to be simultaneously heard along with the MCOP No.41 of 2015, on the file of the Principal District and Motor Accidents Claims Tribunal, Perambalur.



2.The learned counsel for the petitioner would submit that the petitioner is the brother of Late M.Mohan @ Bharathi Malayaman. The said M.Mohan @ Bharathi Malayaman along with five others met with an accident when they were travelling towards Kodaikanal in his Car bearing Registration No.TN 45 BD 7159, as a result of which, the said M.Mohan @ Bharathi Malayaman, died on the spot. The third respondent, who is the wife of the deceased M.Mohan @ Bharathi Malayaman, had filed MCOP No.41 of 2015, on the file of the Principal District and Motor Accidents Claims Tribunal, Perambalur, seeking compensation of Rs.20,00,000/-. The petitioner, being the brother of the deceased M.Mohan @ Bharathi Malayaman, had filed MCOP.No.111 of 2020 on the file of the Motor Accidents Claims Tribunal / Special District Judge, Tiruchirappalli seeking compensation for a sum of Rs.40,00,000/-.

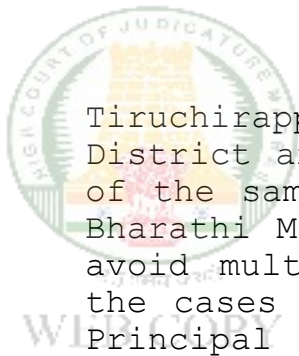
3.The learned counsel for the petitioner would further submit that since both the claims are arising out of the very same cause of action, it is necessary that both the cases have to be tried together by one and the same Judge to avoid multiplicity of proceedings and to avoid conflicting decisions and thereby, the present petition has been filed for transfer. He would further submit that by transferring the claim petition of the petitioner, no prejudice would be caused to the third respondent and he would also submit that the claim petition filed by the third respondent/wife of the deceased is now at the stage of trial and most of the documents relied on by both the parties are one and the same.

4.Mr.Anwar Sameem, learned counsel appearing for the third respondent would submit that the third respondent being the wife of the deceased M.Mohan @ Bharathi Malayaman, is the sole legal heir and representative entitled to receive the compensation. The petitioner being the younger brother of the deceased will not fall within the definition of the legal heir and representative of the deceased and thereby, the third respondent has objection for transfer. He would further submit that in the event of the case is being transferred, the Tribunal has to decide whether the claim of the petitioner is maintainable. The case is now at the stage of trial for further evidence of the Claimant and a direction may be issued for early disposal of the case.

5.Despite service of notice on the second respondent and his name being printed in the cause-list, there is no representation on behalf of the second respondent, either in person or through counsel.

6.Heard the learned counsel for the petitioner and the learned counsel for the third respondent and perused the material available on records

7.Both the cases in MCOP.No.111 of 2020, on the file of the Motor Accidents Claims Tribunal / Special District Judge, Tiruchirappalli



Tiruchirappalli and MCOP No.41 of 2015, on the file of the Principal District and Motor Accidents Claims Tribunal, Perambalur, arise out of the same cause of action, in respect of death of one M.Mohan @ Bharathi Malayaman. This Court is of the opinion that in order to avoid multiplicity of proceedings and conflicting decisions, both the cases have to be tried by one and the same Court, namely, the Principal District and Motor Accidents Claims Tribunal, Perambalur and the Trial Court shall independently decide the matter with regard to the maintainability of the petition filed by the petitioner herein.

8.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner, MCOP.No.111 of 2020 is withdrawn from the file of the Motor Accidents Claims Tribunal / Special District Judge, Tiruchirappalli and transferred to the file of the Principal District and Motor Accidents Claims Tribunal, Perambalur, for disposal as per law. The Motor Accidents Claims Tribunal / Special District Judge, Tiruchirappalli, is directed to transmit the papers to the file of the Principal District and Motor Accidents Claims Tribunal, Perambalur, forthwith. The learned Principal District and Motor Accidents Claims Tribunal, Perambalur, is directed to club the case in MCOP.No.111 of 2020 along with MCOP.No.41 of 2015 together and dispose of the same on merits and in accordance with law as expeditiously as possible. The Trial Court shall independently decide the matter with regard to the maintainability of the petition filed by the petitioner herein.

9.In the result, this Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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.



To

1.The Special District Judge,
Motor Accidents Claims Tribunal /
Tiruchirappalli,

2.The Judge,
Principal District and
Motor Accidents Claims Tribunal,
Perambalur,

Tr.C.M.P. (MD) No.354 of 2021
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MGJ(06.10.2021) 4P 3C