



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2022

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

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CR.P.(MD)No.1108 of 2021

and

C.M.P.(MD)No.6457 of 2021

The New India Assurance Company Limited,
Branch II,
Represented by its Branch Manager,
Having Office at Juman Centre,
43A/2, Promenade Road,
Cantonment, Trichy.

...Petitioner/Petitioner/Respondent
Vs.

K.Bama

...Respondent/Respondent/Claimant

PRAYER: Civil Revision Petition under Article 227 of Constitution of India, to set aside the order passed in I.A.No.1 of 2020 in M.C.O.P.No.306 of 2017 dated 02.09.2020 on the file of the MACT, District Judge, Karur.

For Petitioner :Mr.D.Sivaraman

For Respondent :Mr.V.Meenakshi Sundaram

ORDER

This Civil Revision Petition has been filed by the revision petitioner to set aside the order, dated 02.09.2020 in I.A.No.1 of 2020 in M.C.O.P.No.306 of 2017 passed by the learned District Judge, MACT, Karur.

2.The parties are referred to as per the rank mentioned before the Court below.

3.The revision petitioner herein/2nd respondent has filed a petition in I.A.No.1 of 2020 in M.C.O.P.No.306 of 2017 to refer the claimant to the Medical Board at the Government Head Quarters Hospital, Karur for assessing disability and to give certificate to that effect. The said petitioner was dismissed by the Tribunal on 02.09.2020. Aggrieved over the same, the revision petitioner is before this Court.

4.Heard on either side.

5.Already disability certificates were issued by the Medical Board Government Hospital, Thiruvarur. Again the claimant has examined two Doctors for assessing disability. But all the certificates issued by the Medical Board and P.W.5 & P.W.6, only the Tribunal can assess the functional disability with the help of the certificates.



6. The tribunal has clearly observed in the order, dated 02.09.2020 and the related portion is extracted hereunder:

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"The opinion given by doctor, the disability certificates and the connected materials are before this Court. The Court alone can fix the disability associated with the earning capacity of the person i.e how much the injured has suffered and how much the earning capacity was reduced by such injury or disability. So, there is sufficient evidence available before this Court to decide the functional disability of the respondent/petitioner. Under such circumstances, there would not be any necessity for referring the petitioner to the Medical Board for reassessment."

7. But the percentage given by P.Ws.5 & 6 cannot be taken as disability but it can be corroborated with other evidence for fixing functional disability of the petitioner.

8. So, the tribunal is directed to assess the functional disability of the claimant with support of all the documents.

9. With the aforesaid observations, this Civil Revision Petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ksa

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

The District Judge,
MACT,
Karur.

+1 CC to M/s.D. SIVARAMAN, Advocate (SR-16801[F] dated 06/04/2022)

+1 CC to M/s.D. NALLATHAMBI, Advocate (SR-17255[F] dated 07/04/2022)

Order made in
C.R.P. (MD) No.1108 of 2021
05.04.2022

SS/25.05.2022 : 3P/4C