



CRP.No. 1261 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : .03.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

CRP.No. 1261 of 2021

and

CMP.No. 9870 of 2021

The Divisional Manager
New India Assurance Company
Vellore.

.. Petitioner

Versus

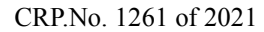
Minor Vignesh
Represented by Guardian father Perumal
Ponneri Village and Post,
Tiruppattur Taluk an District.

.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 25.02.2021 passed in I.A.No. 1 of 2020 in MCOP.No. 323 of 2016 on the file of the MACT, Special Sub Court, Thirupattur.

For petitioner : Ms. S.R. Sumathy

For Respondent : No Appearance



The second respondent in MCOP. No. 323 of 2016 on the file of Motor Accidents Claims Tribunal, Thirupattur, is the revision petitioner herein.

3. The original petition was posted for trial on 12.03.2018 on which date, the evidence on the side of the claimant was closed. The original petition was therefore posted for recording the evidence of witnesses on the side of the revision petitioner on 02.04.2018. Subsequently, the case was adjourned on various dates and ultimately the respondent side evidence was closed on 04.03.2019. Thereafter, the instant application has been filed by the revision petitioner/Insurance Company to reopen the case to enable them to adduce evidence and to examine the witness on their side.

4. The trial Court opined that several opportunities have been



CRP.No. 1261 of 2021

granted to the revision petitioner to examine the witnesses and to mark the documents on their side but they did not avail those opportunities. In fact, it was specifically recorded in the order dated 25.02.2021 that a copy of the accident register was already marked as Ex.P2 and there is no necessity to examine a Doctor as a witness. Accordingly, the trial Court refused to reopen the case and dismissed the application.

5. The learned counsel for the revision petitioner would submit that the claim petition was filed only to get compensation from the Insurance Company without any *bonafides*. When the claimant was admitted in the hospital on 12.05.2016, he has not stated anything about the manner in which he sustained injuries allegedly in a road accident. However, in the FIR name of Auto Rickshaw driven by one Vignesh was indicated. It is the case of the revision petitioner that in the Accident Register there is nothing to suggest that the claimant suffered injuries in the motor accident. Therefore, it is submitted by the revision petitioner that examination of a Doctor is very much necessary to disprove the averments made in the claim petition. Even though the revision petitioner had taken steps to examine the Doctor they could not succeed in doing so. In any event, the trial Court could have given



CRP.No. 1261 of 2021

one more opportunity to the revision petitioner to examine a Doctor and to mark some other documentary evidence to defend the original petition. When the claim itself is bogus it has to be proved by the Insurance Company by marking certain documents and to examine the medical witness. The trial Court, however dismissed the application for recalling the evidence on the side of the respondent/revision petitioner and it call for interference of this Court.

6. Heard the learned counsel for the revision petitioner. There is no representation for the respondent/Claimant inspite of notice and this Court perused the records.

7. The revision petitioner is the respondent in the original petition filed by the claimant seeking compensation for the alleged injuries sustained by him in a motor accident. According to the revision petitioner, the Claimant did not suffer any injuries in a motor accident and such claim is suspicious. For this purpose, the revision petitioner seeks for an opportunity to examine the witness on their side and to mark some documents. At the same time, it is not the case of the revision petitioner that opportunity was



CRP.No. 1261 of 2021

not given at all to examine the witness or to mark the document.

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8. On perusal of the order dated 25.02.2021 passed by the trial court, it could be seen that the evidence of the Claimant was closed on 12.03.2018 and the case was posted on 02.04.2018 for examining the witness of the revision petitioner herein. Subsequently, the case was adjourned to several dates from 13.04.2018, 18.04.2018, 06.06.2018, 27.06.2018, 17.07.2018, 14.08.2018, 06.09.2018, 04.10.2018, 12.10.2018, 31.10.2018, 13.11.2018, 04.12.2018, 10.12.2018, 20.12.2018, 07.01.2019, 25.01.2019 and 06.02.2019. Thus it is glaringly evident that the Court below had granted sufficient opportunities to the revision petitioner to examine the witness on their side and to mark the document. However, the revision petitioner has not availed those opportunities and ultimately on 04.03.2019 the respondent side evidence was closed. In fact, the trial Court upon perusing Ex.P2, copy of the Accident Register has rendered a finding that there is no ambiguity in it and based on Ex.P2, the revision petitioner can very well raise their defence. Even otherwise in a motor accident case claiming compensation, it is for the claimant to prove his case by acceptable evidence and the respondent can very well disprove the claim with the



CRP.No. 1261 of 2021

available documents on record. When the Accident Register, which has come into existence at the earliest point of time, is very much available and marked as Ex.P2, this Court is of the view that the Court below has rightly refused to reopen the evidence on the side of the revision petitioner/respondent. The trial Court has in its discretion rightly dismissed the application filed by the revision petitioner herein and this Court finds no reason to interfere with the same.

9. Accordingly, the order dated 25.02.2021 passed in I.A.No. 1 of 2020 in MCOP.No. 323 of 2016 on the file of the MACT, Special Sub Court, Thirupattur. is confirmed. The Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

.03.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
msm



CRP.No. 1261 of 2021

To

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1. The Special Sub Court,
Motor Accidents Claim Tribunal,
Thirupattur.
2. The Section Officer, High Court, Madras.



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CRP.No. 1261 of 2021

V.BHAVANI SUBBAROYAN, J.

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CRP.No. 1261 of 2021

.03.2023



WEB COPY



CRP.No. 1261 of 2021

Pre-Delivery Order
in
CRP.No. 1261 of 2021
and
CMP.No. 9870 of 2021

TO

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Most Respectfully Submitted
by MSM