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C.R.P(PD)No.1829 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2023

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Civil Revision Petition (PD) No.1829 of 2019

1.Deepak Karki
2.Jyoti Karki Baidawar

... Petitioners

Vs.

1.M/s.United India Insurance Company Ltd.,
Rep. by its Branch Manager,
Sreeji Chambers, Mount Road, Bedford Circle,
Coonoor, The Nilgiris.
2.J.Stephen
3.L.Stephen
4.Thakur Prasad Karki
5.Pradeep Kumar Karki

... Respondents

Civil Revision Petition filed under Article 227 of Constitution of India
praying to set aside the fair and decreetal orders in I.A.No.81 of 2018 in
M.C.O.P.No.13 of 2016 dated 13.03.2019 pending on the file of Motor
Accidents Claims Tribunal/District Judge of the Nilgiris,Udhagamandalam
and allow the Civil Revision Petition.



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For Petitioners : Mr.A.Thameem Mohideen

For Respondent 1 : Mr.N.Vijayaraghavan

For Respondents 2 to 5 : No Appearance

ORDER

This Civil Revision Petition has been filed by the petitioner praying to set aside the fair and decreetal orders in I.A.No.81 of 2018 in M.C.O.P.No.13 of 2016 dated 13.03.2019 pending on the file of Motor Accidents Claims Tribunal/District Judge of the Nilgiris,Udhagamandalam and allow the Civil Revision Petition.

2. The case of the petitioners is the first and second petitioners along with respondents 3 & 4 and their mother Tara Devi Karki went on a pilgrimage from The Nilgiris to Rameshwaram and Kanniyakumari. On 11.11.2015, when they were travelling back from Kanniyakumari, they met with an accident on the Tirunelvi National Highway and lost their mother Tara Devi Kari. In this regard, the petitioners have filed M.C.O.P.No.13 of



2016, before the District Court, The Nilgiris, Uthagamandalam seeking compensation from the first respondent, who is the insurer of the vehicle.

Against which, the first respondent filed I.A.No.81 of 2018 before the District Court, The Nilgiris, Uthagamandalam praying not to entertain the claim petition on the ground that the accident had not occurred within the jurisdiction of this Court and the petitioners do not reside within the jurisdiction of this Court.

2.2. In the Court below, the petitioners herein contended that the husband of the second petitioner viz., Major Suraj Baidawar was an Army Personal, who is in the Defence Service College and thereby the petitioners 1 & 2 were residing in the official's quarters allotted to him at Gurkha Hill, Wellington, Coonoor, The Nilgiris District. Thereafter, the Lower Court observed that though the petitioners 1 & 2 resides at The Nilgiris at the time of accident, they have not produced any evidence to substantiate the said claim. and allowed the I.A.No.81 of 2018 filed by the first respondent/Insurance Company herein with a direction to the petitioners herein to file a petition before the competent Tribunal having territorial



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jurisdiction, within two months from the date of a copy of that order.

Challenging the said order dated 13.03.2019, the petitioners have come forward with the present Civil Revision Petition.

3. When the matter was taken up for hearing, learned counsel for the petitioners has placed reliance on the judgment passed by the *Hon'ble Supreme Court of India in the case of Malati Sardar Vs., National Insurance Company Limited and Others reported in (2016) 3 SCC 43* and prayed this Court to allow the petition by remitting the matter back to the Court below.

4. Learned counsel for the first respondent submitted that he has no objection for remitting the matter back to the Court below for fresh consideration and trial.

5. Heard the learned counsel on either side and perused the materials available on record.



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6. As relied by the learned counsel for the petitioner, it is pertinent to extract the relevant portion of the judgment passed by the ***Hon'ble Supreme Court of India in the case of Malati Sardar Vs., National Insurance Company Limited and Others reported in (2016) 3 SCC 43*** and the same is reads as follows:

16. The provision in question, in the present case, is a benevolent provision for the victims of accidents of negligent driving. The provision for territorial jurisdiction has to be interpreted consistent with the object of facilitating remedies for the victims of accidents. Hypertechnical approach in such matters can hardly be appreciated. There is no bar to a claim petition being filed at a place where the insurance company, which is the main contesting party in such cases, has its business. In such cases, there is no prejudice to any party. There is no failure of justice. Moreover, in view of categorical decision of this Court in Mantoo Sarkar, contrary view taken by the High Court cannot be sustained. The High Court failed to notice the provision of Section 21 CPC.

7. In view of the above factual matrix of the case and in the light of the ratio laid down by the Hon'ble Supreme Court of India, the order passed by The Motor Accident Claims Tribunal/The District Judge of the Nilgiris,



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Udhagamandalam in I.A.No.81 of 2018 is hereby set aside. **The matter is remitted back to The Motor Accident Claims Tribunal/The District Judge of the Nilgiris, Udhagamandalam for fresh consideration and trial with a direction to complete the trial/ proceeding as expeditiously as possible, preferably within a period of one year from the date of receipt of a copy of this order.**

8. In the result, this Civil Revision Petition stands allowed with the above observation and direction. No costs.

05.10.2023 (vm)

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



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