



WEB COPY



CRP.No.3248 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.3248 of 2019 and
CMP.No.21135 of 2019

C.Shanmugam

... petitioner

Vs.

1.M.Rajavel
2.United India Insurance Co.Ltd.,
Pondicherry

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final order dated 11.07.2019 in IA.No.1 of 2019 in MCOP.No.7 of 2015 on the file of II Additional Sub Court, Erode and to allow the civil revision petition.

For Petitioner : Mr.S.Kaithamalai Kumaran

For Respondents

For R2 : Mr.D.Bhaskaran

ORDER

This civil revision petition has been filed to set aside the fair and final order dated 11.07.2019 in IA.No.1 of 2019 in MCOP.No.7 of 2015 on the file of II Additional Sub Court, Erode, thereby dismissed the petition seeking amendment in the claim petition.



CRP.No.3248 of 2019

2. Heard, the learned counsel for the petitioner and the learned counsel for the second respondent.

3. The petitioner is the claimant. He filed claim petition as against the respondents for the injury sustained by him due to an accident took place on 09.01.2015. Due to inadvertance, the petitioner stated the date of accident as 15.08.2014 instead of 09.01.2015. Accordingly, he also deposed as PW1 and wrongly mentioned the date of accident as 15.08.2014. Subsequently he filed petition to amend the claim petition as the date of accident as 09.01.2015 in IA.No.39 of 2018 and the same was allowed by order dated 26.07.2018. Thereafter, he field petition to recall PW1 in order to correct the date of accident. However, it was dismissed on the ground that it was filed only to fill up the lacuna by way of additional proof affidavit and it cannot be permitted. Admittedly, the accident took place on 09.01.2015. However, it was wrontrly mentioned as 15.08.2014. Considering the above facts and circumstances of the case, the Claims Tribunal allowed the petition to amend the claim petition. However, the petitioner was denied to correct the date of accident in his deposition. Therefore, it would not amount to drag on the proceedings and fill up the lacuna.



CRP.No.3248 of 2019

4. In view of the above, this Court finds infirmity in the order passed by the court below and it is liable to be set aside. Accordingly, the fair and final order dated 11.07.2019 in IA.No.1 of 2019 in MCOP.No.7 of 2015 on the file of II Additional Sub Court, Erode is set aside and this civil revision petition is allowed. The petitioner is permitted to file his additional proof affidavit and the respondent concerned is also permitted to further cross examine PW1. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

03.01.2023

Speaking/non-speaking
Index : Yes/No
Internet : Yes
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WEB COPY



CRP.No.3248 of 2019

G.K.ILANTHIRAIYAN, J.

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To
The II Additional Sub Court,
Erode

CRP.No.3248 of 2019

03.01.2023