

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.03.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

CRP(MD).No.480 of 2023

Praphu

... Petitioner

-Vs-

1.Ramamurthy

2.The Manager,
HDFC ERGO General Insurance Company Ltd.,
B1, CCI, Rakh Towers,
No.248-B, Kamarajar Salai,
Madurai.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed in I.A.No.1079 of 2022 in MCOP.No.1941 of 2018 on the file of the Special Sub Court for MCOP Cases, Madurai, dated 12.12.2022.

For Petitioner : Mr.K. Kumaravel

For R2 : Mr.J.S. Murali

ORDER

This Civil Revision Petition has been filed against the impugned fair and decreetal order, dated 12.12.2022 made in I.A.No.1079 of 2022 in MCOP.No.1941 of 2018 passed by the Special Sub Court for MCOP Cases, Madurai.

2. The said MCOP has been filed by the petitioner seeking compensation on account of the accident that had taken place on 16.12.2107, wherein, the vehicle insured with the second respondent belonging to the first respondent was involved in the accident. Another MCOP.No. 1942 of 2022 filed by the same petitioner to represent the interest of his minor son 14 years viz., Siddarth. The Medical Board had given a disability certificate / report on 12.01.2022 for the minor son siddarth, who was then aged about 17 years. This document was marked before the trial Court in MCOP.No.1941 of 2020. Though the aforesaid disability certificate was for the minor son, it was marked as a document in MCOP.No.1941 of 2018 filed by the petitioner. The petitioner herein filed I.A.No.1079 of 2022 in MCOP.No.1941 of 2018 for fresh re-assessment of the disability certificate issued in the name of his minor son Siddarth. It is

strange that the above said Interlocutory Application was filed in MCOP.No.1941 of 2018, which was filed by the petitioner herein, even though the case of the minor son is covered by MCOP.No. 1942 of 2018. The second respondent herein has objected for reassessment, as the aforesaid report of the Medical Board was marked without giving any objection by the petitioner. It was stated that once the document was marked with the consent of both parties without any objection on either side, before the Court, the document could not be eschewed. The trial Court, after examining all the medial report and the averments in I.A.No. 1079 of 2022 in MCOP.No.1941 of 2018 filed by the petitioner, concluded that no re-assessment was required as the report of the Medical Board did not suffer from any infirmity. It is further held that the application has been filed only to protract the proceedings.

3. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the 2nd respondent herein.

4. Having seen the medical report was marked with the

consent of both parties, filing an Interlocutory Application for referring the case back to the Medical Board for re-assessment of the disability assessed by the Medical Board is not permissible. In any event, application should have been filed only in MCOP.No.1942 of 2018, which was filed for his minor son. The petitioner has filed an Interlocutory Application in MCOP.No.1941 of 2018 filed by him seeking compensation for the injury sustained by him in the accident on 16.12.2017. The attempt of the petitioner is to delay the passing of the final award in MCOP.No. 1941 of 2018 and consequently, MCOP.No.1942 of 2018. The request has been rightly rejected by the Tribunal.

5. No case was made out for the re-assessment of the disability assessed and certificate issued to the petitioner's son, who is a claimant in MCOP.No.1942 of 2018. Hence, this Civil Revision Petition is dismissed. Further, liberty is however given to the petitioner to file appropriate application in MCOP.No.1942 of 2018, if no order has been passed so far. No costs.

10.03.2023

Index : Yes / No
Internet : Yes/ No
trp

To

The Special Sub Court for MCOP Cases, Madurai,

CRP(MD).No.480 of 2023

C.SARAVANAN,J.,

trp

CRP(MD).No.480 of 2023

10.03.2023