



C.R.P.(MD) No.2319 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2023

CORAM

THE HON'BLE **MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

C.R.P.(MD) No.2319 of 2023

Maria Anthony Raj

... Petitioner

Vs.

1.Moses Veda Samuel

2.Maria John Kennedy

... Respondents

Prayer:- This Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the learned District Judge, Kanyakumari at Nagercoil to number the un-numbered F.M.C.O.P.No.83 of 2023 and take the case on file and dispose the same on merits.

For Petitioner : Mr.F.Deepak

ORDER

This Civil Revision Petition has been filed by the petitioner to direct the learned District Judge, Kanyakumari at Nagercoil to number the un-numbered F.M.C.O.P.No.83 of 2023 and take the case on file and dispose the same on merits.



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2. According to the petitioner, he filed the above claim petition in un-numbered F.M.C.O.P.No.83 of 2023 before the Motor Accident Claim Tribunal (Principal District Court), Kanyakumari at Nagercoil for compensation which was returned by the learned Principal District Judge, Kanyakumari at Nagercoil stating that the claim petition is barred by limitation.

3. It is submitted that the limitation is generally considered as a mixed question of law and fact and the same cannot be probed at the stage of numbering. The learned counsel for the petitioner would submit that FIR has been registered before the expiry of 6 months from the date of the accident and therefore, the learned Principal District Judge, Kanyakumari at Nagercoil cannot return the claim petition on the ground of limitation.

4. To support of his contention, the learned counsel for the petitioner relied upon a decision of the Madras High Court (Principal Seat of this Court), Chennai, rendered in the case of **Malaravan Vs. Praveen Travels Private Limited and others**, in C.R.P.No.2558 of 2023 dated 18.08.2023, in which, it was held that FIR has been registered before the expiry of 6 months and the claim petition is very well maintainable. The observation made in the above case is extracted hereunder:-



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24.A perusal of the Rules, the judgment of the Supreme Court and the timeline which has been set forth above would clearly show that, the claim petition need not be commenced only by way of presentation of the petition under Section 166. This is clear from Section 166(4) which states that a report filed by the police to the concerned Authorities including the stakeholders, Insurance Companies and the jurisdictional Motor Accidents Claims Tribunal should be treated as the Claim Petition.

5. Applying the above principles and the law discussed in the above case, since FIR has been registered by the Traffic Investigation Wing Police, Nagercoil in time i.e., on the same day when the accident took place on 04.05.2022, the claim petition in un-numbered F.M.C.O.P.No.83 of 2023 filed by the petitioner is maintainable.

6. Therefore, the docket order passed by the learned Principal District Judge, Kanyakumari at Nagercoil is set aside and a direction is given to the learned Principal District Judge, Kanyakumari at Nagercoil to number the claim petition filed by the petitioner under Section 166(a) of the Motor Vehicle Act, 1988 and Rule 24 of the Tamil Nadu Motor Accidents Claims Tribunal Rules, 1989, for just compensation and take up the same for trial.



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K.GOVINDARAJAN THILAKAVADI, J.

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7. With the above observations, this Civil Revision Petition is disposed of. No cost.

14.09.2023

Internet : Yes/No

NCC : Yes/No

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Note: Registry is directed to return the original papers filed along with this petition to the learned counsel for the petitioner on record.

To
The Principal District Judge, Nagercoil
Kanyakumari.

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