



CRP(NPD)(MD).No.1989 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2023

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(NPD)(MD)No.1989 of 2018

and

C.M.P.(MD)No.8755 of 2019

Rajan

: Petitioner

Vs.

United India Insurance Co. Ltd.,
Branch Office,
Through its Branch Manager,
Valliyoor

: Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order made in E.P.No.8 of 2016 in M.C.O.P.No.230 of 2010, on the file of the Motor Accidents Claims Tribunal, [3rd Additional District Judge], Tirunelveli dated 09.02.2018, allow the Civil Revision Petition.

For Petitioner : Mr.T.Selvakumaran

For Respondent : Mr.J.S.Murali



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CRP(NPD)(MD).No.1989 of 2018

ORDER

This Civil Revision Petition is filed praying to set aside the order made in E.P.No.8 of 2016 in M.C.O.P.No.230 of 2010, on the file of the Motor Accidents Claims Tribunal, [3rd Additional District Judge], Tirunelveli dated 09.02.2018

2.Learned Counsel for the petitioner would submit that the executing Court, while ordering the arrest has not given any opportunity to the petitioner to put forth his defence of no means, and would further submit that even without any material, the executing Court has come to the conclusion that the petitioner has got means and ordered arrest against the petitioner. According to the learned Counsel for the petitioner, such an order is erroneous. Hence, prayed to set aside the same.

3.However, learned Counsel for the respondent would vehemently submit that, the trial Court after taking cognizance of both the petitioner and the respondent and also taking note of the ownership over the vehicle, has arrived at a conclusion that the petitioner herein has got means and ordered arrest. Therefore, he prayed that the order of the executing Court does not warrant interference.



CRP(NPD)(MD).No.1989 of 2018

WEB COPY

4.I have given my anxious consideration to the submissions of the learned counsel appearing on either side, and perused the materials available on record.

5.The one and only submission putforth by the learned Counsel for the petitioner is that he has not been given opportunity to putforth his defence of no means. However, while perusing the impugned order it is apparent that the petitioner himself was examined as R.W.1. The very finding of the Court below about the possession of vehicle bearing No.TN 72 V 0080 was found a reason to hold that the petitioner has got means. The finding of the Court below that absence of any document so as to prove the alleged sale of the very vehicle definitely weigh in favour of the respondent. Though there is an award of Rs.5,75,000/- was ordered to be recovered from the petitioner on the face of it, this Court is not in a position to deviate from the finding made by the Court below. Therefore, this Court is of the view that the finding of the Court below that the petitioner has got means is liable to be confirmed.



CRP(NPD)(MD).No.1989 of 2018

WEB COPY

6.Accordingly, this Civil Revision Petition is dismissed.

There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

25.09.2023

Index : Yes / No

Internet : Yes / No

MR

To

1.The III Additional District Judge,
Motor Accident Claims Tribunal,
Tirunelveli.

2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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CRP(NPD)(MD).No.1989 of 2018

C.KUMARAPPAN, J.,

MR

C.R.P(NPD)(MD)No.1989 of 2018

25.09.2023