



WEB COPY

CRP.No.1081 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.No.1081 of 2022

and

CMP.No.5546 of 2022

Vijayalakshmi

...Petitioner

Vs.

1.Kishore Kumar

2.Ganga Devi

3.Saravanan

...Respondents

Prayer: Civil Revision Petition filed under Section 227 of the Constitution of India, against the order dated 30.11.2021 made in I.A.No.1083 of 2021 in MACTOP.No.1357 of 2019 on the file of the Motor Accident Claims Tribunal, Puducherry.

For Petitioner : Mr.T.M.Naveen

For Respondents : Mr.T.Ananthasekar for R1

R2 - Given up

R3 - Served - No Appearance

ORDER

The order under challenge is an order of the Motor Accident Claims Tribunal, Puducherry dismissing an application in I.A.No.1083 of 2021 filed



by the petitioner herein seeking impleading of a third party to the proceedings in MCOP.No.1357 of 2019.

WEB COPY

2.The said MCOP.No.1357 of 2019 was filed by the 1st respondent herein seeking compensation for the injuries suffered by him in a road accident that occurred on 10.08.2019 at about 9.30 a.m. According to the claimant, the accident occurred when he was riding his motor cycle bearing Registration No.PY-01-CQ-4484 at Thengaithittu Harbour Road, the TATA Indica car bearing Registration No.PY-01-AM-5049 belonging to the 2nd respondent and driven by the 1st respondent in a rash and negligent manner dashed against him from behind. Due to the impact, the petitioner was thrown off the vehicle and had suffered various injuries. Claiming that the injuries have resulted in a permanent disability, the 1st respondent herein had sought for a compensation of Rs.53,57,510/-.

3.The owner of the vehicle was impleaded as the 2nd respondent and the petitioner herein, who according to her was a passenger was impleaded as 1st respondent. The petitioner herein filed a counter contending that she was not the driver of the vehicle and the vehicle was driven by one



Saravanan. Pending the original petition, the petitioner filed I.A.No.1083 of 2021 seeking to implead the said Saravanan as a party respondent in the claim petition. The Tribunal dismissed the petition stating that the petitioner, who is a respondent in the claim petition cannot seek impleading of a third party.

4.The Tribunal followed the judgment of the Hon'ble Supreme Court in *Khenyei Vs. New India Insurance Co. Ltd.*, made in *Civil Appeal No.4244 of 2015* dated *07.05.2015* wherein, the Hon'ble Supreme Court had held that a claimant cannot be made to add parties, whom he or she does not want to fight against, in a claim petition. The Tribunal has rightly observed that even if the said Saravanan had driven the vehicle at the relevant point of time, it will be open to the 1st respondent herein to examine the said Saravanan by summoning him to the Court. He cannot be impleaded as a party as against the wishes of the 1st respondent, who is in a position of a plaintiff in a civil suit.

5.Though Mr.T.M.Naveen, learned counsel appearing for the petitioner would vehemently contend that as a driver of the offending vehicle, the said Saravanan is a necessary party to the proceedings, I do not



think such contention can be accepted. If a plea is taken by any of the respondent that some other person was the driver of the vehicle, it is for the claimant to add the person. If the claimant does not want to add the person, the claimant will suffer the consequences. As rightly observed by the Tribunal, the claimant cannot be forced to add a third party in his or her claim petition. I therefore, see no reason to interfere with the order of the Trial Court, excepting to observe that it will be open to the petitioner to establish the fact that Saravanan was at the wheels on the fateful day by either examining the said Saravanan or through some other method.

6.This Civil Revision Petition therefore, fails and it is accordingly, **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

18.01.2024

kkn

Internet:Yes

Index:No

Speaking

Nuetral Citation :No



To:-

The Motor Accident Claims Tribunal,
Puducherry.

CRP.No.1081 of 2



R.SUBRAMANIAN, J.



WEB COPY

CRP.No.1081 of 2



KKN

C.R.P.No.1081 of 2022
and
CMP.No.5546 of 2022

18.01.2024