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Tr. C.M.P. No. 560 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

Tr. C.M.P. No. 560 of 2022

and

C.M.P. No. 9769 of 2022

HDFC ERGO General Insurance Co., Ltd.,
R.R. Towers – II, 2nd Floor,
No.94/95, TVK Industrial Estate,
Guindy, Chennai – 600 032.

... Petitioner

Vs.

1.K. Manivendhan
2.S. Vijayakumar
3.M. Dhanabalan

... Respondents

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C., praying to withdraw the M.C.O.P.No.399 of 2017 on the file of the Special Subordinate Judge, Erode and transfer the same to the file of Motor Accident Claims Tribunal, Special Sub-Court for M.C.O.P., cases, Coimbatore to be heard along with M.C.O.P.No.1301 of 2016 Special Sub Court for M.C.O.P., cases, Coimbatore.

For Petitioner : Mr. S. Arunkumar



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ORDER

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2. Heard the learned counsel for the petitioner and perused the record. In spite of service of notice, there is no representation for the respondents.

3. The first respondent herein filed a claim petition in M.C.O.P.No.399 of 2017 on the file of the Special Subordinate Judge, Erode seeking compensation for the injuries sustained by him in a motor vehicle accident that occurred on 13.09.2016. The petitioner herein impleaded as respondent No.3, said to be insurer and it is pending before the concerned Court.



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4. Learned counsel appearing for the petitioner herein submits that in that accident two persons were injured and two persons died. Out of 4 victims, 3 victims filed claim petition in M.C.O.P.No.1301 of 2016, M.C.O.P.No.614 of 2017 and M.C.O.P.No.1398 of 2018 on the file of the Motor Accident Claims Tribunal cum Additional District Judge, Coimbatore and it is pending. Learned counsel submits that the vehicle involved in the accident was not insured with them and the policy number is no way connected to their insurance company. The documents and evidence to be let in on their side is common in all four cases.

5. Learned counsel further contends that to avoid conflicting views and contradictory judgments, it is just and necessary to try all the MCOPs together in the interest of justice. Accordingly, he requested to transfer M.C.O.P.No.399 of 2017 from the Motor Accident Claims Tribunal, Special Subordinate Judge, Erode to, on the file of the Motor Accident Claims Tribunal, Sub Court for MCOP Cases, Coimbatore to be heard along with the pending MCOPs before that Court.



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6. Having heard the submissions of the learned counsel for the petitioner and on perusal of the material available on record, it appears that the first respondent / claimant sustained bone fracture in right hand, hip, right cheek, jaws, chest, shoulders and abrasion all over the body. In the claim petition, it is stated that due to bone fracture, two operations were performed, plate and screw were implanted. Due to bone fracture at right hand, hip and shoulders, the petitioner could not walk, sit and squat.

7. Considering the injuries sustained by the first respondent / claimant, if this claim petition is transferred to Court at Coimbatore, it will be very difficult for him to travel and to attend the Court proceedings at Coimbatore. Admittedly, he is an Auto driver, again he has to engage an Advocate at Coimbatore and he has to take all his witnesses to adduce his evidence in the Court at Coimbatore, definitely, it will be very difficult for him to spend some money for that purpose.

8. Considering these facts, in the considered opinion of this Court, it is not appropriate and reasonable to consider the request of the petitioner



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herein to transfer M.C.O.P.No.399 of 2017 from the Court of Special Subordinate Judge for M.C.O.P., Cases, Erode to the Motor Accident Claims Tribunal, Sub Court for MCOP Cases, Coimbatore.

9. Accordingly, the Transfer Civil Miscellaneous Petition is dismissed.

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

24.06.2024

Index : Yes / No

Neutral Citation : Yes / No

AT

To

1.The Special Subordinate Judge, Erode.

2.The Motor Accident Claims Tribunal, Special Sub-Court for M.C.O.P., cases, Coimbatore.

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BATTU DEVANAND, J.

AT

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