



CRP.No.4749 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED 03.01.2024

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THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

C.R.P.NO.4749 OF 2023 &
CMP.NO.28195 OF 2023

National Insurance Company Limited,
2nd Floor, 81-D, Chetty Street,
Bus Stand Opposite,
Tiruchengode,
Namakkal District

.. Petitioner

Vs

1.Senthilkumar
2.Sountharajan

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India against the docket order passed in I.A.No.78 of 2023 in E.C.No.42 of 2019, dated 30.08.2023 on the file of the Commissioner for Workmen's Compensation, Deputy Commissioner of Labour, Salem.

For Petitioner : Mrs. N.B.Sureka

ORDER

This Civil Revision Petition has been filed against the docket order passed in I.A.No.78 of 2023 in E.C.No.42 of 2019, dated 30.08.2023 by the Commissioner for Workmen's Compensation, Deputy Commissioner of Labour, Salem.



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2. The learned counsel for the petitioner submitted that the 1st respondent herein/claimant, on 11.09.2018, while loading stones in a lorry belonging to the 2nd respondent, a stone accidentally fell down on his leg and hand, due to which, he sustained fracture on his left leg and sustained grievous injuries on his left finger and also multiple injuries on his other parts of the body. Seeking compensation for the injuries sustained by him, he filed a claim petition in E.C.No.42 of 2019 before the Joint Commissioner of Labour, Salem under section 10 of Workmen's Compensation Act. The case was adjourned as 'Orders Reserved'. Meantime, he filed I.A.No.78 of 2023 to reopen the petitioner side evidence in order to produce his disability certificate and Medical Board memo to ascertain his disability by way of appearing before the Medical Board.

3. It is his further submission that the injured has not filed any documents such as discharge summary, X-Ray and wound certificate to prove that the petitioner had sustained injuries in the accident and in the absence of any documents, he filed an application to reopen the



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claimant's side evidence and sought him to refer to Medical Board for ascertaining his disability. The Workmen Commissioner allowed that petition and ordered notice to the Medical Board.

4. It is the specific submission of the learned counsel for the petitioner that the Workmen Commissioner had given notice to Medical Board without even considering the evidence and no X-ray has been produced. Even the Accident Register issued by the private hospital states that there is no fracture and the injuries are only simple in nature. Therefore, in the absence of any documents such as X-ray, discharge summary issued by the hospital, in which he took treatment, his application to re-open his side evidence was allowed. Therefore, the order passed by the Commissioner for Workmen's Compensation is liable to be set aside and prayed for allowing this Civil Revision Petition.

5. Heard the learned counsel for the petitioner and perused the materials available on record.



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6. On perusal of records, the fact reveals that the petitioner is the second respondent and 1st respondent herein is claimant respectively in E.C.No.42 of 2019 on the file of Commissioner for Workmen's Compensation, Deputy Commissioner of Labour, Salem. In the claim petition, the 1st respondent claimed a compensation of Rs.15,00,000/- for the injuries sustained by him in the accident. During the proceedings, he filed an application in I.A.No.78 of 2023 in E.C.No.42 of 2019 to reopen his side evidence, enabling him to produce the disability certificate from the Medical Board and the same was allowed by passing the impugned order. The petitioner objected on the ground that there is no discharge summary to establish the nature of the injuries alleged and treatment taken by the claimant and in the said circumstances, forwarding the claimant for Medical Board examination to produce disability certificate is unwarranted. But the trial court in order to give a chance to the claimant to establish his Medical inability, reopened the claimant's side evidence by allowing I.A.No.78 of 2023. The 1st respondent / claimant claimed that he had sustained injuries. During the cross examination, he admitted that he had not filed disability certificate issued by the Medical Board. Hence he filed this application to reopen his case in order to



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ascertain his disability before the Medical Board by way of appearing before the Medical Board. So, in order to give an opportunity to the claimant to establish his claim, the Commissioner for Workmen's Compensation has rightly ordered to reopen the claimant's side evidence and permitted him to appear before the Medical Board. In such a view of the matter, I find no reason to interfere with the impugned order passed by the court below. Any how, the Medical Board at the time of cross examination, is directed to consider the nature of injuries sustained by the claimant at the time of the accident on 11.09.2018 while issuing the disability certificate.

7. With this observation, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index:yes/No

03.01.2024

Internet:yes/no

msr

To

The Commissioner for Workmen's Compensation,
Deputy Commissioner of Labour, Salem)



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V. SIVAGNANAM, J.

msr

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