



C.R.P(MD)Nos.1277 & 1278 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.03.2025**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)Nos.1277 & 1278 of 2024
and
CMP(MD)Nos.7335 & 7337 of 2024

M/s.New India Assurance Company Limited,
Jerome Building, II Floor,
Fort Station Road,
Trichy.

... Petitioner/Petitioner/
3rd Respondent
(In both cases)

Vs.

A.Shanmugasundaram

... Respondent/Respondent/
Petitioner
(In both cases)

Prayer in C.R.P(MD)No.1277 of 2024: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order passed in I.A.No.5 of 2024 in M.C.O.P.No.517 of 2022 on the file of Special Subordinate Judge of Trichy, dated 11th March, 2024.



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Prayer in C.R.P(MD)No.1278 of 2024: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order passed in I.A.No.6 of 2024 in M.C.O.P.No.517 of 2022 on the file of Special Subordinate Judge of Trichy, dated 11th March, 2024.

For Petitioner : Mr.V.Sakthivel
(In both cases)

COMMON ORDER

The 3rd respondent in M.C.O.P.No.517 of 2022 on the file of Special Subordinate Court, Tiruchirappalli has filed the present revision petition challenging the dismissal of their application filed for summoning the Doctor from the Medical Board to examine him.

2. The respondent herein had sustained injuries in a road traffic accident and had filed the above said claim petition seeking compensation of Rs.8 Lakhs. As per the orders of the Hon'ble Division Bench, the claimant has been referred to the Medical Board in Mahatma Gandhi Medical College Government Hospital, Tiruchirappalli. The claimant was assessed by three members of the said Board. As per the



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report, the claimant has been assessed with 75% Neuropsychiatric disability and the total disability has been assessed at 80%.

3. The claimant had entered into the box and deposed. He was subjected to cross-examination by the Insurance Company. During cross-examination, the claimant was able to understand all the questions and he has given elaborate answers. This has prompted the insurance company to doubt about the disability certificate issued by the Medical Board. When the matter was posted for arguments, the present application in I.A.No.5 of 2024 has been filed by the Insurance Company to summon the Neurosurgeon who was part of the board to examine him as a witness. The tribunal has dismissed the application on the ground that no sufficient reasons have been assigned for issuance of summons. The tribunal has further found that all the materials are already before the Court and they have been marked by the claimant. The Medical Board has issued the certificate only after examining the claimant. In such circumstances, the question of summoning the doctor would not arise. Challenging the same, the present revision petition has been filed.



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4. According to the learned counsel appearing for the revision petitioner, since the claimant had answered all the questions put to him in the cross-examination, it has raised doubts over the disability certificate issued by the Medical Board to an extent of 75% of Neuropsychiatric disability. Therefore, the Insurance Company wanted to summon any one of the doctors of the Medical Board who is a Neurosurgeon.

5. Though the respondent has been served and name is printed in the cause-list, he has not chosen to appear either in person or through counsel. Heard the submissions of the learned counsel for the petitioner and perused the material records.

6. The disability certificate issued by the Medical Board of Mahatma Gandhi Medical College Government Hospital, Tiruchirappalli has been doubted by the Insurance Company after the claimant has given elaborate answers in the cross-examination. The Insurance Company cannot be found fault with for doubting the disability certificate on the above said ground. Unless any one of the doctor who had examined the claimant is summoned and he is subjected to cross-examination, the



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Insurance Company would not be in a position to establish their case.

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The trial Court had erroneously dismissed the said application.

7. In view of the above said deliberations, the order impugned in the revision petitions are set aside. I.A.No.5 of 2024 filed by the Insurance Company to reopen the respondent side evidence is allowed and I.A.No.6 of 2024 filed by the Insurance Company for examining one of the doctors of the Medical Board who is a Neurosurgeon stands allowed.

8. With the above said observations, both the Civil Revision Petitions stand allowed. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

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NCC : Yes / No
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Internet : Yes / No
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Tiruchirappalli.

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

R.VIJAYAKUMAR,J.



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Order made in
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