

(2004) 06 MAD CK 0001
In the Madras High Court

United India Insurance Co. Ltd.

APPELLANT

Vs

R. Madanagopal and Others

RESPONDENT

Date of Decision : 24-06-2004

Acts Referred:

Citation : (2005) 3 ACC 434

Hon'ble Judges : V. Kanagaraj, J

Bench : Single Bench

Judgement

V. Kanagaraj, J.—The above civil revision petition has been filed against the order and decretal order dated 19.1.2004 made in M.P. No.

206 of 2004 in O.P. No. 4949 of 2000 on the file of the Chief Judge, Court of Small Causes, Chennai.

2. The subject matter is that the respondents herein filed a petition in M.C.O.P. No. 4949 of 2000 before the Chief Judge, Court of Small Causes,

Chennai, claiming a total compensation of Rs. 1.75 crores approximately, and while the O.P. was under process, the second respondent/petitioner

herein has filed a petition u/s 151 of C.P.C. seeking to issue subpoena to summon Dr. Mayilvahanan, working at Appollo Speciality Hospital, to

give evidence in the M.A.C.T.O.P. Cases, as he is the person who had given treatment to the claimants, and since the same was dismissed, the

petitioner has come forward to file the above civil revision petition.

3. The learned Counsel for the petitioner submits that the respondents herein were treated at Appollo Speciality Hospital by Dr. Mayilvahanan and

it is, therefore, just and necessary to examine Dr. Mayilvahanan to depose regarding the treatment given to the claimants and nature of injury as

well as the present disability of the injured and hence, would pray to summon Dr.

Mayilvahanan and to examine him as a witness.

4. Today, when the above matter was taken up for consideration, on a perusal of the materials placed on record and upon hearing the learned

Counsel for the petitioner, this Court is of the view that the examination of Dr. Mayilvahanan is essential, particularly in view of the fact that the said

doctor had treated the claimants and he would be in a better position to assess the disability of the injured persons and, therefore, this Court feels it

just and necessary to cause its interference into the order passed by the lower Court and hence, the following order:

In result,

(i) the above civil revision petition is allowed.

(ii) the order dated 19.1.2004 made in MP. No. 206 of 2004 in O.P. No. 4949 of 2000 on the file of Chief Judge, Court of Small Causes,

Chennai, is set aside;

(iii) The lower Court is directed to issue subpoena to Dr. Mayilvahanan, working at Appollo Speciality Hospital, to adduce evidence in the MA

C.T.O.P. Cases;

(iv) consequently, C.M.P. No. 4831 of 2004 is closed;

(v) there shall be no order as to costs.