

(2002) 07 MAD CK 0239**Madras High Court****Case No:** None

National Insurance Company
Limited

APPELLANT

Vs

S. Rajesh

RESPONDENT**Date of Decision:** July 26, 2002**Citation:** (2005) 3 ACC 368**Hon'ble Judges:** A.S. Venkatachalamoorthy, J**Bench:** Single Bench**Judgement**

@JUDGMENTTAG-ORDER

A.S. Venkatachalamoorthy, J.

The above revision has been filed against the order passed in LA. No. 1227/2001 in M.C.O.P. No. 805/1998 on the file of the Motor Accident Claims Tribunal (Sub-Court) Kancheepuram dated 31.7.2001.

2. Petitioner filed a petition u/s 151, C.P.C. to direct the respondent/claimant to appear before the Company Board Doctor or before the Medical Board so that he could be examined and the Doctors would be able to place correct facts/materials before the Court.

3. The Tribunal took the view that there is no necessity to compel the respondent/claimant to appear before the Insurance Company Doctors and dismissed the petition.

4. Heard the learned Counsel for the petitioner as well as the respondent.

5. It is true that the respondent/claimant has examined one Doctor by name Thiagarajan as P.W. 2 who is a General Surgeon. He has deposed that the respondent/claimant has sustained injuries to the extent of 40% with reference to the injury on the head. In the cross-examination a question was put to him namely "whether if a person sustains injuries to the extent of 40% on the head, then he

would become a mentally disordered person". The Doctor as P.W. 2 has answered in the negative. The Court certainly requires some more evidence on this aspect from medical experts. Hence, if the petitioner wants to examine a Neurologist or an Orthopaedic Surgeon to substantiate his case, that has to be necessarily granted. Certainly both the Doctors have to be permitted to examine the respondent/claimant but that can be only in Court Hall before their giving evidence. The request to direct the respondent/claimant to appear before the Medical Board or before the Insurance Company Doctor cannot be granted. In this view of the matter, the revision is allowed to the extent indicated above. No costs. Consequently, C.M.P. No. 3961/2002 is closed.