

C.M.A(MD)No.473 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 01.06.2026

PRONOUNCED ON: 17.07.2026

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.473 of 2026

Adhidoss @ Kalidos : Appellant/Petitioner/Petitioner

Vs.

1.K.Rajendran

2.The United Insurance Company Limited,
represented by its Branch Manager,
Pradeep Towers,
Chinniah Street,
Pattukkottai Taluk & Town,
Thanjavur District. : Respondents/Respondens/Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 173(1) of Motor Vehicles Act, against the order of the learned III Additional District Judge, Thanjavur @ Pattukkottai in I.A.No.712 of 2022, in M.C.O.P.No.43 of 2011, dated 07.02.2023.



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C.M.A(MD)No.473 of 2026

For Appellant : Mr.B.Anandan

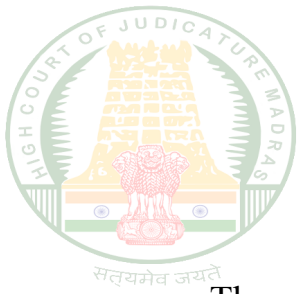
For Respondents : Mr.G.Mathavan
for R.1

: Mr.A.S.Mathiyalagan
for R.2

JUDGMENT

This Civil Miscellaneous Appeal is directed against the order passed in I.A.No.712 of 2022 in M.C.O.P.No.43 of 2011, dated 07.02.2023, dismissing the petition filed under Order 9 Rule 9 C.P.C.

2. The appellant, as petitioner, has filed a claim petition under Section 163 and 166 of the Motor Vehicles Act in M.C.O.P.No.43 of 2011, on the file of the Motor Accident Claims Tribunal / Additional District Court, Pattukkottai, seeking compensation for the disability sustained by him, consequent to an accident occurred on 15.01.2010. When the claim petition in M.C.O.P.No.43 of 2011 was posted for enquiry on 08.08.2022, since the appellant/claimant was absent and as there was no representation for him and the matter is pending from 2011, the Tribunal passed an order dismissing the claim petition for default.



C.M.A(MD)No.473 of 2026

WEB COPY

The claimant filed a petition invoking Order 9 Rule 9 C.P.C., seeking orders to restore the claim petition in M.C.O.P.No.43 of 2011, which was dismissed for default, in I.A.No.712 of 2022.

3. The claimant in the affidavit filed in support of the restoration petition has stated that the claim petition was posted for enquiry on 08.08.2022 and due to his illness, he was unable to appear before the Court, that the petition was dismissed for default, that the claimant came to know about the dismissal recently, that the non-appearance of the petitioner is neither wilful nor wanton and that if the petition is not allowed, the claimant will be put to irreparable loss and hardship.

4. The second respondent/Insurer filed a counter statement raising serious objections and further stated that the claim petition was dismissed earlier on 17.02.2014 and as per the order passed in I.A.No.101 of 2014, dated 26.08.2014, the claim petition was restored to file, that the claim petition was dismissed for default again on 03.02.2015 and as per the order passed in I.A.No.531 of 2019, dated 06.09.2021, the claim petition was restored to file, that the claimant filed the third petition to restore the



C.M.A(MD)No.473 of 2026

WEB COPY

claim petition, that the claimant has not produced any medical records to prove the alleged illness and that since the claimant has filed the third application to protract the case, the petition is liable to be dismissed.

5. During enquiry, neither the claimant nor the second respondent has adduced any evidence. The learned trial Judge, considering the pleadings of both sides and on hearing the arguments of both sides, passed the impugned order dated 07.02.2023, dismissing the restoration petition. Aggrieved by the order of dismissal, the claimant has preferred the present Civil Miscellaneous Appeal.

6. It is pertinent to note that the claimant has filed the present appeal along with an application under Section 5 of the Limitation Act to condone the delay of 655 days in filing the appeal, in C.M.P.No.4648 of 2025, and the learned Judge of this Court allowed the petition with costs and that thereafter, the above appeal was taken on file.



C.M.A(MD)No.473 of 2026

WEB COPY

7. The learned Counsel for the appellant/claimant would submit that the Tribunal ought to have adopted liberal approach while considering the petition for restoration, since the proceeding arises under the Motor Vehicles Act, which is a beneficial legislation, that the technicalities should not stand in the way of adjudicating the claim on merits and that the claimant should be afforded one more opportunity to prosecute his claim petition.

8. The learned Counsel for the second respondent / Insurer would submit that the claimant has filed the petition under Order 9 Rule 9 C.P.C., for the third time, that the claim petition was dismissed twice earlier and at the instance of the claimant, the claim petition was restored to file on both the occasions, that even thereafter, the claimant failed to prosecute the claim petition and purposely dragged on the matter and that therefore, the trial Court taking note of the conduct of the claimant and also the pendency of the claim petition from 2011 onwards, has rightly dismissed the restoration petition and therefore, the impugned order does not warrant any interference.



C.M.A(MD)No.473 of 2026

WEB COPY

9. No doubt, as rightly pointed out by the learned Counsel for the appellant/claimant, the provisions of the Motor Vehicles Act are intended to provide just compensation to the victims of the motor accidents and the Courts are generally expected to adopt liberal approach while considering the applications seeking restoration of claim petitions. But at the same time, as rightly contended by the learned Counsel for the respondents, such a liberal approach cannot be extended irrespective of the conduct of the party to the lis. The claimant is duty bound to prosecute the proceedings with due diligence and cannot repeatedly claim the indulgence of the Court without assigning any acceptable reasons.

10. In the present case, as already pointed out, the accident had occurred in the year 2010 and the claim came to be filed in the year 2011. Admittedly, the claim petition was dismissed for default on two occasions, on 17.02.2014 and 03.02.2015 and at the instance of the claimant, as per the orders passed in I.A.No.101 of 2014, dated 26.08.2014 and I.A.No.531 of 2019, dated 06.09.2021, the claim petition



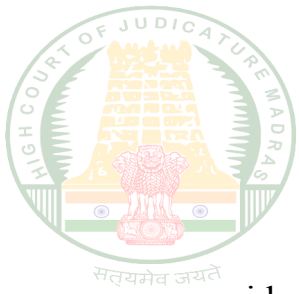
C.M.A(MD)No.473 of 2026

WEB COPY

was restored to file. It is further evident that after restoration for the second time, the case was adjourned for enquiry several times and lastly it was adjourned to 08.08.2022 for enquiry. Despite having been afforded sufficient opportunities, the claimant once again allowed the claim petition to be dismissed for default for the third time on 08.08.2022. The Tribunal has rightly observed that the claim petition had remained pending for nearly 12 years and that the claimant had repeatedly failed to prosecute the claim petition.

11. As already pointed out, the claimant has canvassed the only explanation that he was suffering from illness. Except making such bald and vague averment, the claimant has not elaborated anything further. The claimant has also not produced any iota of medical records to show the nature of the illness, the period during which he was allegedly incapacitated or the circumstances which prevented him from appearing before the Tribunal.

12. As rightly contended by the learned Counsel for the respondents, a vague assertion of illness unsupported by the medical



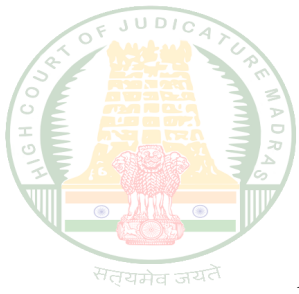
C.M.A(MD)No.473 of 2026

WEB COPY

evidence cannot constitute sufficient cause for restoration, particularly when the claimant had already secured restoration on the very same claim petition on two earlier occasions. It is pertinent to note that the discretion to restore the proceedings is required to be exercised judiciously and not mechanically. But repeated negligence and lack of diligence on the part of the claimant cannot be ignored under the guise of adopting a liberal approach. The beneficial nature of the Motor Vehicles Act does not absolve the claimant from the obligation to prosecute the claim petition diligently.

13. As already pointed out, though delay of about 655 days in filing the present appeal had been condoned by this Court, such condonation merely enables the appellant to prosecute the appeal on merits and it does not automatically validate the explanation offered before the Tribunal nor does it dilute the requirement of proving the necessary reason for restoration of claim petition.

14. On considering the entire facts and circumstances, this Court is of the clear view that the Tribunal considering the materials available on



C.M.A(MD)No.473 of 2026

WEB COPY

record, had exercised the discretion on sound and relevant considerations and that the finding of the Tribunal that the claimant was not interested in prosecuting the claim petition cannot said to be perverse. The appellant/claimant has not shown any valid ground or reason to impugn the well reasoned order of the Tribunal. Consequently, this Court concludes that the Civil Miscellaneous Appeal is devoid of merits and the same is liable to be dismissed.

15. In the result, the Civil Miscellaneous Appeal is dismissed. The parties are directed to bear their own costs.

17.07.2026

NCC : Yes : No
Index : Yes : No
Internet : Yes : No

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To

1. The III Additional District Court,
Thanjavur @ Pattukkottai.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

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C.M.A(MD)No.473 of 2026

K.MURALI SHANKAR,J.

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PRE-DELIVERY JUDGMENT MADE IN

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