

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2015

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(PD).Nos.4235 and 4236 of 2012

E.Suresh Babu

.. Petitioner

Vs.

1. The Managing Director
M/s.Puducherry Road Transport
Corporation Ltd.,
No.40, Goubert Avenue,
Puducherry 605 001.

2. Mr.S.Tamilvanan

.. Respondents

Prayer:- Civil Revision Petitions filed under Article 227 of Constitution of India, against the fair and decreetal orders dated 26.4.2012 made in C.M.P.No.3984 of 2011 and C.M.P.No.3983 of 2011 in M.C.O.P.No.2056 of 2011 respectively on the file of Motor Accidents Claims Tribunal, Chennai (II Small Causes Court, Chennai).

For Petitioner in both CRPs. : Mr. E. Omprakash

For respondents in both CRPs : Mr.A.R.Nixon for R1
R2-No appearance

ORDER

These Civil Revision Petitions have been filed challenging the impugned orders passed on 26.4.2012 in allowing the C.M.P.Nos.3983 and 3984 of 2011 on the file of Motor Accident Claims Tribunal, Chennai. (II Small Causes, Court, Chennai). C.M.P.No.3984 of 2011 is filed to condone the delay of 673 days in filing a petition to set aside the exparte decree passed against the 1st respondent and C.M.P.No.3983 of 2011 is filed to set aside the exparte decree passed on 20.1.2010 against the 1st respondent in main petition.

2. Heard both sides.

3. Learned counsel appearing for the petitioner would submit that the petitioner who is an injured victim of a road traffic accident has filed M.C.O.P.No.2056 of 2007 before the Motor Accidents Claims Tribunal, Chennai claiming compensation of Rs.6,00,000/-. Since the respondent has not contested the case, an exparte decree came to be passed on 20.1.2010 awarding Rs.2,06,600/- as compensation, against which, the claimant/petitioner herein filed an execution proceedings for recovery of decree amount. At this

juncture, the respondents in main petition (MCOP No.2056 of 2007) also have filed M.P.Nos.3983 and 3984 of 2011 to set aside the exparte decree passed against them and to condone the delay of 673 days in filing a petition to set aside the exparte decree passed against them.

4. The main argument advanced by the learned counsel for the petitioner is that the entire decree amount has been deposited by the 1st respondent/ Managing Director of Puducherry Road Transport Corporation Ltd. It filed C.M.P.Nos.3983 and 3984 of 2011 stating that the vehicle was insured with the Insurance Company and during the pendency of Section 5 application, that amount has been paid by this Insurance Company to the 1st respondent, the Managing Director, Puducherry Road Transport Corporation Limited. Hence, there is no necessity for condone the delay and to set aside the exparte decree. That factum was not considered by the trial court. Hence he prayed for setting aside the impugned order passed by the trial court.

5.At this juncture, learned counsel appearing for the respondents would fairly concede that it is true that the decree

amount has been already deposited by them and in turn, the Insurance Company has paid the award amount and fulfilled the award and thereby left the matter for court's consideration.

6. Even though, an ex parte decree has been passed, the decree amount was deposited by the 1st respondent viz., Puducherry Raod Transport Corporation Ltd., and that has been indemnified by the Insurance Company. So nothing survives in the main petition M.C.O.P.No.2056 of 2007. Only, the petitioner ought to have filed an application to receive the decree amount as compensation. As the decree amount has already been deposited, nothing survives in the main petition and therefore there is no necessity to adjudicate the matter once again. So the common order passed setting aside the ex parte decree and condoning the delay in filing petition to set aside the ex parte decree is liable to be set aside, accordingly, they are hereby set aside.

7. In fine, these Civil Revision Petitions are allowed setting aside the common order passed in M.P.Nos.3983 of 2011 and 3984 of 2011 in M.C.O.P.No.2056 of 2007 by the Motor Accident Claims Tribunal (II Small Causes Court, Chennai). No costs. Consequently,

the connected Miscellaneous Petitions are closed.

15.12.2015

Index :Yes/No

Internet:Yes/No

msr

To

The Motor Accidents Claims Tribunal, Chennai
(II Small Causes Court, Chennai).

R. MALA, J

msr

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