

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2016

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THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.2444 of 2016

C.M.P.No.12608 of 2016

Chinnadurai

... Petitioner

..VS...

1. Latha
2. Minor Ranjitha
3. Minor Ranjith
4. Gurunathan
5. M/s Cholamandalam MS General
Insurance Company Limited,
rep. By its Branch Manager,
Kumbakonam Branch,
Kumbakonam.

..Respondents

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the fair and decreetal order passed by Motor Accidents Claim Tribunal (Additional Subordinate Court) Mayiladuthurai in I.A.No.27 of 2015 in M.C.O.P.No.212 of 2011 dated 05.04.2016.

For Petitioner : Mr.R.Shivakumar for
M/s K.M.Vijayan Associates

ORDER

Challenging the fair and final order dated 05.04.2016 passed in I.A.No.27 of 2015 in M.C.O.P.No.212 of 2011, on the file of the Motor Accidents Claim Tribunal (hereinafter referred to as “the Tribunal”), Additional Subordinate Court, Mayiladuthurai, the 2nd respondent in the Original Petition, who is the owner of the vehicle, has filed the above Civil Revision Petition.

2. The claimants filed M.C.O.P.No.212 of 2011, claiming compensation to the tune of Rs.10,00,000/- for the death of one Sekar. Though the revision petitioner engaged a counsel before the Tribunal, subsequently, he remained absent. The respondents 1 and 3, who are the driver of the vehicle and the Insurance Company, had contested the original petition and after contest, the Tribunal awarded a sum of Rs.4,95,000/- as compensation, payable by the revision petitioner. The award was passed by the Tribunal on 29.04.2013.

3. Thereafter, the revision petitioner filed an application in I.A.No.27 of 2015 to condone the delay of 414 days in filing the application to set aside the ex-parte award.

4. In the affidavit filed in support of the application in I.A.No.27 of 2015, the revision petitioner has stated that he was suffering from Jaundice and was taking native treatment. Apart from the said averment, the revision petitioner has not substantiated the said averment by letting in any oral or documentary evidence before the Tribunal. When the revision petitioner is contending that he was suffering from Jaundice for 414 days, he should have established the said contention by acceptable evidence before the Tribunal. In the absence of any evidence produced before the Tribunal, the Tribunal has rightly dismissed the application. In the absence of sufficient cause shown by the revision petitioner, the delay cannot be condoned.

5. It is settled position that unless a party seeking for condonation of delay gives sufficient cause for the delay, the delay should not be condoned. The ratio laid down by the Hon'ble Supreme Court of India, in a Judgment reported in *(2015) 1 SCC 680 (H.Dohil Constructions Private Limited vs. Nahar Exports Limited and Another)* squarely applies to the facts and circumstances of the present case. The Tribunal has rightly dismissed the application. I do not find any error or irregularity in the

M. DURAISWAMY,J.,

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order passed by the Tribunal. The Civil Revision Petition is devoid of merits and hence the same is dismissed. No costs. Connected miscellaneous petition is also dismissed.

09.08.2016

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To

The Motor Accident Claim Tribunal
(Additional Subordinate Court) Mayiladuthurai

C.R.P.(NPD)No.2444 of 2016