

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24-11-2017

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

**C.R.P.(NPD) No.4662 of 2014
and M.P.No.1 of 2014**

1.Santhakumari
2.Mohanraj
3.Gowri
4.Sudharsan
5.Maheswari

... Petitioners

Vs

United India Insurance Co. Ltd.,
Divisional Office – I,
104-A, Peramanur Main Road,
Salem – 7.

... Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 10.07.2014 passed in I.A.No.887 of 2013 in MCOP No.151 of 2005 on the file of Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Salem.

For Petitioners : Mr.P.Jagadeesan

For Respondent : No appearance

ORDER

This Civil Revision Petition has been filed against the order dated 10.07.2014 passed in I.A.No.887 of 2013 in MCOP No.151 of 2005 on the file of Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Salem.

2. The petitioners are the legal heirs of claimant Kulandaisamy and the respondent is the 2nd respondent in the claim petition filed before the Motor Accident Claims Tribunal, (Chief Judicial Magistrate), Salem. The claimant filed claim petition before the Tribunal for the injuries sustained by him in the accident occurred on 28.02.2004 claiming a sum of Rs.4,00,000/- as compensation. The respondent filed counter statement on 02.08.2006 but subsequently did not contest the case. Hence, the respondent was set exparte and exparte award was passed granting a sum of Rs.4,00,000/- as compensation. The respondent filed I.A.No.887 of 2013 to condone the delay of 1910 days in filing the petition to set aside the exparte award. The claimant/Kulandaisamy opposed the the said application. Pending application, the claimant died and his legal heirs were brought on record. The learned Judge, considering the averments in the affidavit and counter affidavit, allowed the application in order to give an opportunity to the respondent to contest the matter.

3. Against the said order dated 10.07.2014 passed in I.A.No.887 of 2013 in MCOP No.151 of 2005, the present Civil Revision Petition is filed by the petitioners.

4. Heard the learned counsel for the petitioners and perused the materials available on record. Though the respondent entered appearance through counsel, there is no representation for the respondent.

5. From the materials available on record, it is seen that the respondent has not given any reason for condoning the delay in filing the application to set aside the exparte award. On the other hand, from the materials, it is seen that after exparte award, the petitioners filed E.P No.6 of 2010 for withdrawal of the amount awarded by the Tribunal. However, the respondent submitted before the Tribunal that they have filed application to condone the delay in filing the application to set aside the exparte award. In view of the same, the said Execution Petition was dismissed. The respondent did not pursue the said application. Only when the petitioners again filed E.P No.24 of 2013, the respondent has come out with the present application to condone the delay in filing the petition to set aside the exparte award. The learned Judge, without considering these aspects has allowed the application in order to give an opportunity to the respondent to put forth their case. The learned Judge has not imposed any condition on the respondent / Insurance company while allowing the application. MCOP is of the year 2005 and exparte award was passed on

13.06.2008. The respondent has not given any reason for condoning the delay in filing the petition to set aside the exparte award.

6. In view of the above circumstances, the order of the learned Judge dated 10.07.2014 passed in I.A.No.887 of 2013 in MCOP No.151 of 2005 is modified directing the respondent to deposit the entire award amount of Rs.4,00,000/- to the credit of MCOP No.151 of 2005, within a period of eight (8) weeks from the date of receipt of a copy of this order, failing which the I.A.No.887 of 2013 filed by the respondent shall stand automatically dismissed. On such deposit being made by the respondent/insurance company, the petitioners are permitted to withdraw 50% of the said amount and share the same equally among them.

7. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

24.11.2017

Speaking/Non-speaking order
Index : Yes/No
rgr

Note: Registry is directed to forward a copy of this order to the respondent/ Insurance Company forthwith.

V.M.VELUMANI, J.
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To

The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Salem.

C.R.P. (NPD) No.4662 of 2014



24.11.2017

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