

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2017

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

C.R.P.(NPD)No.2705 of 2009

Manimegalai

.. Petitioner

Vs.

1.Sadhasivam

2.R.Dharmalingam

3.Oriental Insurance Co. Ltd.,  
No.261/A, First Floor, 9<sup>th</sup> Block,  
Jaya Nagar, Bangalore-11.

4.Smt.Lakshmi

5.United India Insurance Co Ltd.,  
No.6-C, Choodamani Street,  
Dharmapuri.

.. Respondents

PRAYER:

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated on 15.09.2000, made in I.A.No.105 of 2000 in M.C.O.P.No.214 of 1992, on the file of the Motor Accidents Claims Tribunal (Sub Court), Krishnagiri.

For Petitioner : Mr.C.Prabhakaran

For RR 3 to 5 : No appearance

ORDER

The Civil Revision Petition is filed against the fair and decreetal order dated on 15.09.2000, made in I.A.No.105 of 2000 in M.C.O.P.No.214 of 1992, on the file of the Motor Accidents Claims Tribunal (Sub Court), Krishnagiri.

2. The petitioner is claimant, respondents are the respondents M.C.O.P.No.214 of 1992 on the file of Sub Court, Krishnagiri. The petitioner filed M.C.O.P.No.214 of 1992, claiming a sum of Rs.1,00,000/- for the injury sustained by her in the accident that occurred on 08.07.1989. When the claim petition was posted for final hearing on 19.09.1996, the petitioner was called absent and no representation was made on behalf of the petitioner. The said claim petition was dismissed for default on that day. The petitioner filed I.A.No.105 of 2000 to condone the delay of 1237 days in filing the application to restore the claim petition in M.C.O.P.No.214 of 1992. The said application was allowed on 21.08.2000, on condition that a sum of Rs.100/- should be paid to owner of the vehicle on or before 14.09.2000, failing which the petition shall stand dismissed. The petitioner did not pay the cost and the application was dismissed on 15.09.2000.

3. Against the said order of dismissal dated 15.09.2000,

made in I.A.No.105 of 2000 in M.C.O.P.No.214 of 1992, the present Civil Revision petition is filed by the petitioner.

4. The learned counsel appearing for the petitioner submitted that the petitioner is willing to forego interest from the date of dismissal for default (i.e) on 19.06.1996 and made an endorsement to that effect. Recording the endorsement of the counsel for the petitioner, I hold that the petitioner is not entitled to interest from 19.06.1996 (i.e) the date of dismissal for default, till today.

5. In the MC.O.P.No.214 of 1992, the second respondent was called absent on 26.10.1989 and the first respondent was set exparte on 28.11.1990. Therefore, notice is dispensed with, with regard to first respondent and the second respondent in the present Civil Revision Petition. Though notice was served on the respondents 3,4 and 5 and their names are printed in the cause list, there is no representation either in person or through counsel.

6. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

7. Considering all the materials on record and the

endorsement made by counsel for petitioner, I hold that in the interest of justice, the petitioner must be given an opportunity to put forth her case on merits. Therefore, the Civil Revision Petition is allowed, setting aside the order of dismissal dated 15.09.2000, made in I.A.No.105 of 2000. The learned Judge is directed to number application for restoration of MCOP if it is otherwise in order and hear the same on merits and pass orders in accordance with law.

8. In the result, the above Civil Revision Petition is allowed. No costs.

28.07.2017

Index: Yes/No  
gsa/mfa

To

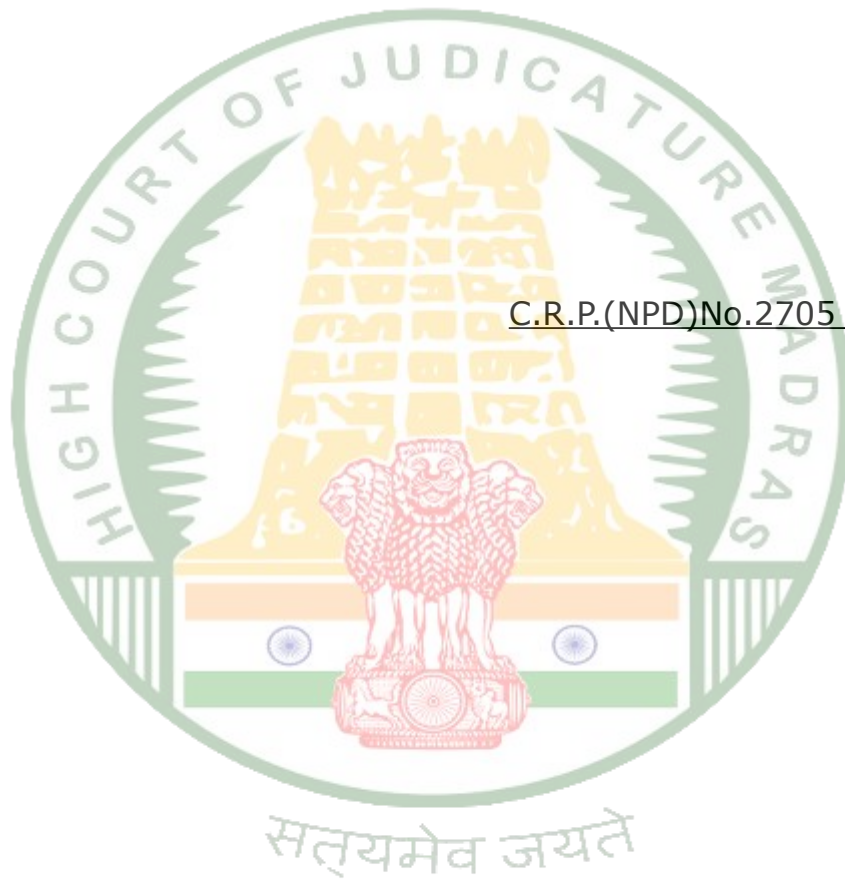
1.The Sub Judge,  
Motor Accidents Claims Tribunal,  
Krishnagiri.

2.The Oriental Insurance Co. Ltd.,  
No.261/A, First Floor, 9<sup>th</sup> Block,  
Jaya Nagar, Bangalore – 11.

3.The United India Insurance Co Ltd.,  
No.6-C, Choodamani Street,  
Dharmapuri.

**V.M.VELUMANI,J.**

mfa



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