



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

**CRP(MD) .No.1936 of 2013 and
MP(MD) .No.1 of 2013**

Tamil Nadu State Transport Corporation Limited,
through its Managing Director,
Madurai Limited, Madurai Road,
Virudhunagar.

: Petitioner

Vs.

S. Sundarraaj

: Respondent

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order dated 21.11.2012 in I.A.No.815 of 2012 in MCOP.No.59 of 2008 on the file of the Motor Accidents Claims Tribunal / Sub Court, Sivakasi.

For Petitioner	: Mr. K. Gokul
For respondent	: Mr. A. Sivaji

O R D E R

This Civil Revision Petition is filed to to set aside the order dated 21.11.2012 passed in I.A.No.815 of 2012 in MCOP.No.59 of 2008 on the file of the Motor Accidents Claims Tribunal / Sub Court, Sivakasi.

2. The petitioner is Transport Corporation, respondent in MCOP.No.59 of 2008 on the file of the Motor Accidents Claims Tribunal / Sub Court, Sivakasi. The respondent filed claim petition in MCOP, claiming compensation for the injury caused in the accident. The petitioner entered appearance through Advocate and it was posted to 16.10.2010. On that day, there was no representation on behalf of the petitioner and hence, ex parte order was passed. The petitioner filed I.A.No.815 of 2012 to condone the delay in filing the petition to set aside the ex parte award.

<https://hcservices.courts.gov.in/hcservices/>
3. According to the petitioner, their Advocate was engaged in another Court and he could not represent the petitioner in MCOP



and subsequently, he fell sick and he was taking treatment. In the circumstances, he did not inform the petitioner about the ex parte award. The delay in filing the petition is neither wilful nor wanton, but due to the reasons stated above.

4. The respondent filed counter and submitted that very same Advocate was appearing for the petitioner in number of other cases and therefore, the contention of the petitioner that their Advocate fell sick and therefore, he did not inform the petitioner, is not correct.

5. The learned Judge considering the averments made in the affidavit and counter affidavit, dismissed the application stating that the reason given by the petitioner is not valid and sufficient to condone the delay.

6. Against that order, present Civil Revision Petition has been filed.

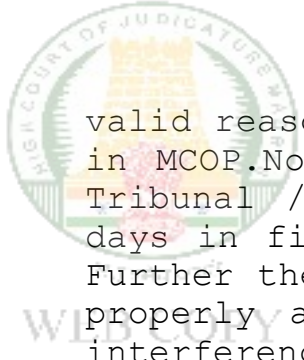
7. The learned counsel appearing for the petitioner submitted that the delay is only due to ill-health of counsel for the petitioner and he could not inform the petitioner about the award and on the date of hearing, their Advocate was engaged in another Court and therefore, he did appear before the Court and the delay is neither wilful nor wanton. The learned Judge failed to see that the petitioner has given sufficient reason to condone the delay in filing the petition and prayed for allowing the Civil Revision Petition.

8. The learned counsel appearing for the respondent submitted that it is not correct to state that counsel for the petitioner fell sick and was taking treatment and did not inform about the petitioner about ex parte award. The said Advocate is Standing Counsel for the petitioner and he represented in all other cases on behalf of the petitioner during that period and prayed for dismissal of this petition.

9. I have heard the learned counsels appearing on either side and perused the materials available on record.

10. The petitioner filed I.A.No.815 of 2012 in MCOP.No.59 of 2008, to condone the delay of 639 days in filing a petition to set aside the ex parte decree. According to the petitioner, their counsel did not inform about the ex parte award and his counsel fell sick and was taking treatment and therefore, did not inform about the ex parte award. The petitioner did not dispute the contention of the respondent that the very same Advocate represented for the petitioner in number of other cases.

11. In the circumstances, the learned Judge considered all the materials on record in proper perspective and has given cogent and



valid reasons for dismissing the application in I.A.No.815 of 2012 in MCOP.No.59 of 2008 on the file of the Motor Accidents Claims Tribunal / Sub Court, Sivakasi for Condoning the delay of 639 days in filing the application to set aside the ex parte decree. Further the learned Judge has exercised his power conferred on him properly and there is no irregularity or illegality warranting interference by this Court.

12. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

/True copy/

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal / Subordinate Judge, Sivakasi.

Copy To:

The Section Officer,

V.R Section,

Madurai Bench of Madras High Court,

Madurai.

+1 CC to M/s.K.GOKUL, Advocate, SR No. 3156.

+1 CC to M/s.A.SIVAJI, Advocate, SR No. 2996.

TRP

PSM/CM-MSA/22.02.2017/3P/5C

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