

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2755 of 2008
and M.P.No.1 of 2008

V.Muthusamy

...Appellant /1st Respondent

1.M.Chinnasamy
Vs

2.The Branch Manager,
United India Insurance Co., Ltd.,
Perambalur. ...Respondents/Petitioner/2nd Respondent

Prayer: Civil Miscellaneous Appeal filed under Order 43 Rule 1 of C.P.C., praying against the Fair and Decreetal order passed in I.A.No.347 of 2007 in M.C.O.P. No.493 of 2000 dated 11.12.2007 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Perambalur District.

For Appellant : Mr.A.A.Venkatesan

For Respondents : R1- No Appearance
Mr.N.Vijayaraghawan for R2

JUDGMENT

The instant appeal has been filed challenging the order dated 11.12.2007 passed by the Motor Accident Claims Tribunal in I.A.No.347 of 2007 in MCOP.No.493 of 2000.

2. I.A.No.347 of 2007 was filed by the appellant/petitioner seeking to set aside the ex parte Award dated 21.02.2002 passed against him. The Motor Accident Claims Tribunal by its Award dated 21.02.2002 in MCOP.No.493 of 2000 directed the appellant/ petitioner to pay a sum of Rs.33,000/- together with interest at 9% per annum from the date of claim till the date of realisation to the first respondent who sustained injuries as a result of an accident caused by a vehicle owned by the appellant/petitioner.

3. The reasons given in the affidavit in support of I.A.No.347 of 2007 filed under Order 9 Rule 13 of C.P.C r/w

section 151 to set aside the ex-parte Award against the appellant/ petitioner is that after having received the notice in MCOP.No.493 of 2000, the appellant/petitioner handed over the papers to his counsel, who did not defend the case by filing the vakalat and by filing a counter to the claim petition filed by the first respondent before the Tribunal.

4. This Court has perused the impugned order as well as affidavit filed in support of I.A.No.347 of 2007. It is an admitted fact that the appellant/ petitioner has received the notice in MCOP.No.493 of 2000. Despite receipt of notice in MCOP.No.493 of 2000, the appellant/ petitioner has not entered appearance in MCOP.No.493 of 2000 by filing vakalat before the Tribunal.

5. Accordingly, the Award was passed against the appellant/ petitioner on 21.02.2002. The application to condone the delay in filing application to set aside the ex-parte Award was filed in the year 2004. The appellant/ petitioner was set ex parte by the Tribunal on 28.06.2000. So, it is clear that the appellant/ petitioner has received the notice in MCOP.No.493 of 2000 much prior to that date, but the application to condone the delay in filing the ex-parte award was filed only in the year 2004 by the appellant/ petitioner after four years from the date when he was set ex parte by the Tribunal. No sufficient explanation was given in the affidavit for the period from 2000 to 2004 for having not filed any application to set aside the ex parte Award.

6. In the considered view of this Court, the Tribunal has rightly rejected the application filed by the appellant / petitioner in I.A.No.347 of 2007 seeking to set aside the ex-parte award dated 21.02.2002 passed in MCOP.No.493 of 2000. Accordingly, there is no merit in the instant appeal. Hence, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar

gsi/nl

To

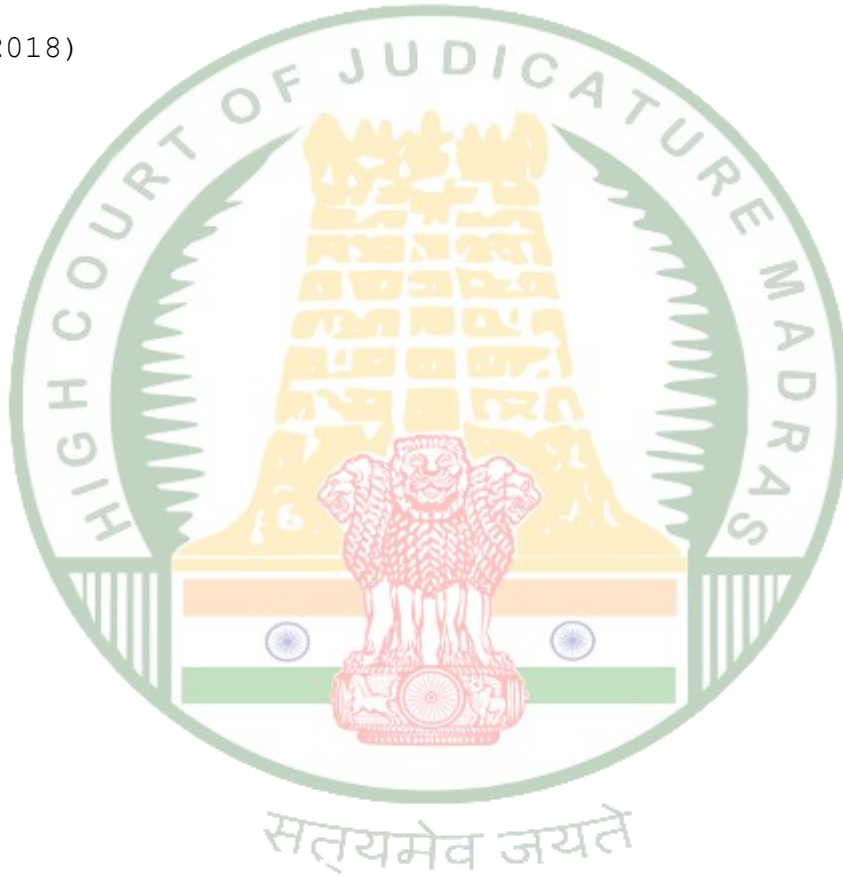
1. The Chief Judicial Magistrate,
Motor Accident Claims Tribunal, Perambalur District.

2. The Section Officer,
Vernacular Section,
High Court, Madras.

+1cc to Mr.A.A.Venkatesan, Advocate, S.R.No. 69058
+1cc to Mr.N.Vijayaraghavan, Advocate, S.R.No. 69821

C.M.A.No.2755 of 2008

RGN(CO)
GN(02/11/2018)



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