



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P(MD)No.1050 of 2014 (NPD) and
M.P(MD)No.1 of 2014

L.Kannan .. Revision Petitioner/Petitioner /2nd Respondent

Vs.

Minor.Nagalakshmi
rep. by her Guardian next friend
and her father Subbaiah .. Respondent/Respondent/Claimant

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the Fair order and Ex-order dated 18.12.2013 passed in I.A.No.45 of 2012 in MCOP.No.393 of 2008 on the file of the Motor Accident Claims Tribunal, (Additional Subordinate Court), Tenkasi.

For Petitioner : Mr.R.Lakshmanan
For Respondent : Mr.R.J.Karthik
for Mr.R.Subramanian

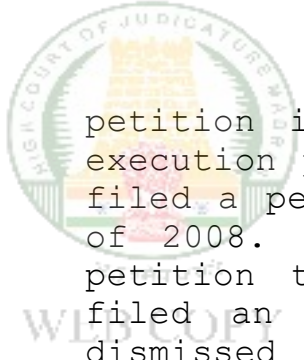
ORDER

This Civil Revision Petition has been filed challenging the order dated 18.12.2013 passed in I.A.No.45 of 2012 in MCOP.No.393 of 2008 on the file of the Motor Accident Claims Tribunal (Additional Subordinate Court), Tenkasi.

2. Heard the learned Counsel on either side and perused the materials available on record.

3. The Revision Petitioner is the owner of the car which caused injury to the respondent/claimant, who filed the claim petition in MCOP.No.393 of 2008 before the Motor Accident Claims Tribunal, Additional Subordinate Court, Tenkasi.

4. By award dated 06.07.2010, the Tribunal has directed the revision petitioner/2nd respondent to pay a sum of Rs.51,000/- towards compensation with interest at the rate of 7.5% per annum w.e.f 09.07.2008 to the respondent/claimant. The Motor Accident Claims Tribunal has found that the claim is proved to the extent of Rs.51,000/-, though it is a case of injury. Pursuant to the award of the Tribunal, the respondent herein filed an execution



petition in E.P.No.136 of 2012. However, after filing of the execution petition by the respondent, the revision petitioner has filed a petition to set aside the ex-parte decree in MCOP No.393 of 2008. Since there was a delay of 813 days in filing the petition to set aside the ex-parte decree, the petitioner has filed an application to condone the same. That petition was dismissed by the learned Additional Subordinate Judge, Tenkasi. Hence, the above Civil Revision petition has been filed by the Revision petitioner / the second respondent in the petition in MCOP.No.393 of 2008.

5.This Court, going through the entire order, found that the lower Court is perfectly right in dismissing the petition as the petitioner has not given any reason to condone the delay of 813 days in filing the petition to set aside the ex-parte decree. From the records, it is seen that the petitioner has not even filed a counter for more than one year in the claim petition. It is also admitted that proof affidavits were filed on 27.11.2010 and thereafter, the witnesses were also cross examined. It was only because of the delay in action, the lower Court has found that the petition to condone the delay of 813 days cannot be entertained. Hence, this Court find no reason to interfere with the order passed by the learned Judge, especially the revision petitioner has not given any explanation for the delay. It is seen that the trial Court, after analysing the entire facts and circumstances of the case, has rightly dismissed the petition. Thus, I do not find any perversity or illegality in the order challenged in this revision.

6. In the result, the Civil Revision Petition is dismissed and the order dated 18.12.2013 passed in I.A.No.45 of 2012 in MCOP.No.393 of 2008 on the file of the Motor Accident Claims Tribunal / Additional Subordinate Court Tenkasi, is confirmed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

The Additional Subordinate Judge,
Motor Accident Claims Tribunal, Tenkasi.

+ 1 CC TO Mr.R.LAKSHMANAN, ADVOCATE IN SR No. 75724
+ 1 CC TO Mr.R.J.KARTHICK, ADVOCATE IN SR No. 76052

RM

<https://hcservices.scribd.com/24/08/2018> : 2P/4C

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