

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 19.02.2019

**CORAM :**

**THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR**

**C.R.P. (NPD) No.3220 of 2008 &**

**M.P.No.1 of 2008**

Mr.R.Thirupathi .. Petitioner

Vs.

Mr.K.Rajendran .. Respondent

**PRAYER:** Civil Revision Petition filed under 227 of Constitution of India against the Order dated 25.02.2008 made in I.A.No.77 of 2006 in W.C.No.230 of 2005 on the file of the Commissioner for Workmen's Compensation, Salem.

For Petitioner : Mr.P.Parthikannan  
for Mr.S.Kaithamalaikumaran

For Respondent : Ms.G.Preethy  
for Mr.C.Thangaraju

**ORDER**

This revision has been filed as against the Order of dismissal of the application filed to set aside the exparte Order passed against the revision petitioner.

2. The brief facts leading to filing of this revision is as follows :

The respondent has filed an application claiming compensation on the ground of injury sustained while working as a driver under the revision petitioner. The revision petitioner has been set exparte and an exparte award has been passed for a sum of Rs.4,79,560/-. An application has been filed by the revision petitioner with a delay of three days to set aside the exparte Order. The authority below dismissed the application on 25.08.2000 on the ground that on the date of the exparte Order, there was no representation for the revision petitioner and dismissed the application. As against which, the present revision has been filed.

3. Heard the learned counsel for the revision petitioner and the learned counsel for the respondent and perused the materials available on record.

4. The revision petitioner has filed an application to set aside the exparte Order. It is the main contention of the revision petitioner that the notice in the proceedings has not been served and belatedly served in the different address while he was in Orissa. Therefore, there was a delay in filing the application to set aside the exparte Order.

5. The revision petitioner has pleaded that because of delayed service and as the notice has been redirected to his new address, there was a delay of three days. The Court below has not even considered the reasons set out for such delay and dismissed the application.

6. It is to be noted that when sufficient cause is set out in the petition filed to set aside the ex parte Order, liberal approach has to be given to advance substantial justice to the parties. The parties cannot be deprived of their substantial right on mere technicalities. When there is a reasonable ground set out in the affidavit to condone the delay of just three days, the trial Court ought to have exercised its discretion to condone the delay and ought to have given a chance to the revision petitioner to contest the matter on merits. However, the same has not been done. Considering the same, the Order passed by the authority is liable to be set aside.

7. Accordingly, this Civil Revision Petition is allowed and the Order of the Commissioner for Workmen's Compensation in I.A.No.77 of 2006 in W.C.No.230 of 2005 is set aside. The revision petitioner shall file counter within one month from the date of receipt of a copy of this Order before the authority and thereafter, the authority shall dispose of the claim application within three

months. Consequently, the connected miscellaneous petition is closed. No cost.

**19.02.2019**

vrc

To

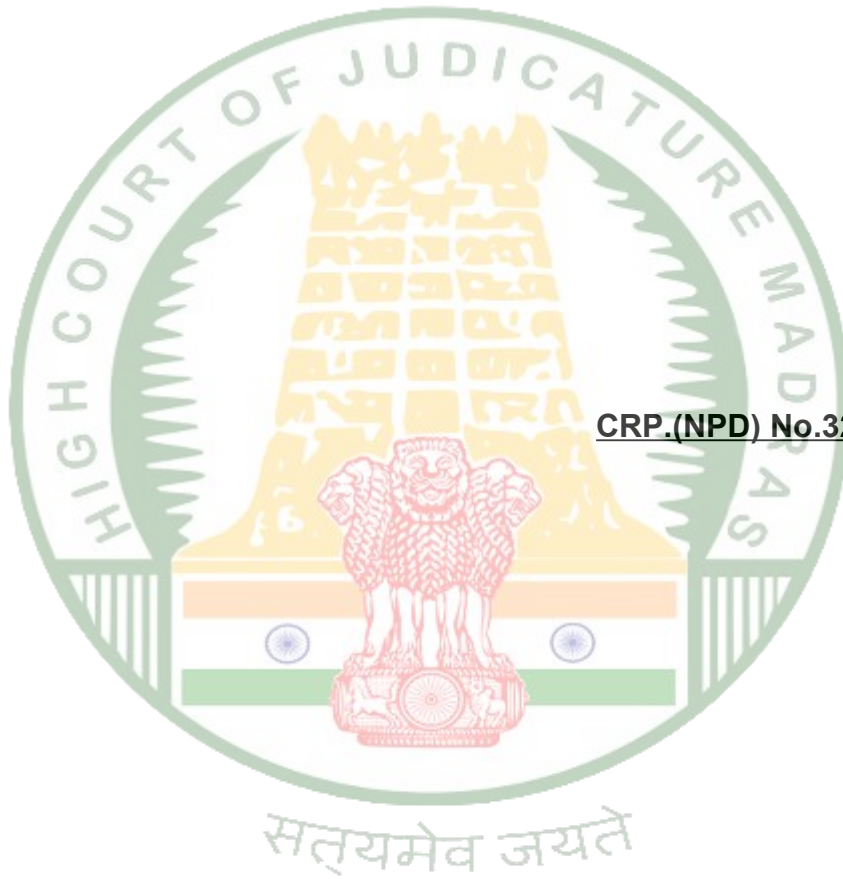
The Commissioner,  
Workmen's Compensation,  
Salem.



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**N.SATHISH KUMAR, J.**

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**19.02.2019**