

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1177 of 2016

1.Datchayani
2.Tamizhmani
3.Punithavani

.. Appellants/Petitioners

Vs.

1.Muthu
2.The Divisional Manager,
National Insurance Company Limited,
34, 2nd Floor, Raja Complex,
J.N.Street, Puducherry.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Order and Decretal order dated 08.01.2016 in I.A.No.992 of 2015 in M.C.O.P.No.1091 of 2004 on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Presiding Officer, Pondicherry.

For Appellants : Mr.A.Tamil Vanan

For Respondents: Mr.S.Arunkumar for R2
No appearance for R1

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the order dated 08.01.2016 in I.A.No.992 of 2015 in M.C.O.P.No.1091 of 2004 on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Pondicherry, to set aside the order of dismissal and to restore the M.C.O.P.No.1091 of 2004.

2.Heard the learned counsel appearing for the appellants as well as learned counsel appearing for the second respondent and perused the entire materials available on records.

3.From the materials available on record, it is seen that the appellants have filed the M.C.O.P.No.1091 of 2004, claiming a sum of Rs.10,00,000/- as compensation for the

death of one Tamilselvan, who died in the accident that took place on 15.03.2004.

4. Earlier on 08.10.2007, the said claim petition was dismissed for default and on application filed by the appellants for restoration, the order of dismissal was set aside and M.C.O.P.No.1091 of 2004 was restored to file on 17.10.2008. The appellants filed an application for amendment and the same was also ordered. The appellants did not take any steps from 01.02.2012 till 07.11.2013. On 07.11.2013, neither the appellants nor their counsel were present. Hence, the said M.C.O.P was dismissed for default on 07.11.2013. The Appellants filed I.A.No. 992 of 2015 in M.C.O.P.No.1091 of 2004 on 10.10.2014, after 11 months of dismissal of M.C.O.P., on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Presiding Officer, Pondicherry, to set aside the order of dismissal and to restore the M.C.O.P.

5. According to the appellants, due to ill health of the first appellant, they could not contact their advocate. The appellants are not vigilant enough to conduct the case and get the relief. The accident has occurred in the year 2003 and the claim petition was dismissed earlier in the year 2007 and subsequently only on 10.10.2014, the appellants filed I.A.No.992 of 2015 for restoration of M.C.O.P.No.1091 of 2004.

6. Considering all the above materials, I find there is no error in the impugned order of the Tribunal warranting interference by this Court.

7. In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy// सत्यमेव जयते
Sub Assistant Registrar

vkx

To

1. The II Additional District Judge, (presiding Officer)
Motor Accident Claims Tribunal,
Pondicherry.
2. The Section Officer,
VR Section,
High Court, Madras.

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+1cc to Mr.S.Arunkumar, Advocate, S.R.No.106446
+1cc to Mr.A.Thamilvanan, Advocate, S.R.No.106001

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SJ(CO)
CB(31/07/2020)



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