

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2019

Coram

The Honourable Ms.Justice P.T.ASHA

C.R.P.(NPD)No.1507 of 2018
and
C.M.P.Nos.8059 & 6563 of 2019

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Villupuram Division III, Villupuram. .. Petitioner

Versus

1.K.Sugra

2.Afraa

3.Saara

4.K.Raghupathy

5.Naseema

6.The Oriental Insurance Company Limited,
28, Karpura Street, Periamet,
Chennai – 3.

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, as against the order passed in M.P.No.773 of 2017 in MCOP No.493 of 2009 dated 30.06.2017 by the Motor Accident Claims Tribunal, Chennai (Chief Judge, Small Causes, Chennai).

For Petitioner : Mr.A.Antony Arockiaraja

For Respondents : Mr.S.D.S.Philip, for R1

ORDER

The above Civil Revision Petition is filed challenging the order passed by the Motor Accident Claims Tribunal, Chennai in M.P.Nos.773 and 774 of 2017 in MCOP.No.493 of 2009.

2.The first respondent/Transport Corporation before the Tribunal is the revision petitioner before this Court. M.P.No.773 of 2017 is filed to condone the delay of 158 days in filing the application to set aside the ex-parte order and M.P.No.774 of 2017 is to set aside the ex-parte award passed on 17.09.2016.

3.The brief facts are as follows:-

The respondents 1 to 5 herein who are legal representatives of the deceased Mohamed Sibaqthullah had filed the claim petition claiming compensation of sum of Rs.32,42,000/- for the death of the said Mohamed Sibaqthullah in a road accident involving the bus belonging to the revision petitioner/Transport Corporation. Since the revision petitioner had remained ex-parte, the Tribunal after considering the evidence already let in had passed an award granting

a sum of Rs.14,55,422/- as compensation together with interest at 7.5% p.a. from the date of petition till the date of realization. The said ex-parte order came to be passed on 17.09.2016. Thereafter, the application for setting aside the ex-parte award has been filed with a delay of 158 days by the revision petitioner/Transport Corporation. In the affidavit filed in support of the said petition, the revision petitioner would contend that the junior had noted down the hearing date wrongly and the corporation could not lead evidence to conduct their case. This was the reason for the delay.

4.The respondents/claimants had objected to the said petition and filed detailed counter narrating the fact that the Transport corporation is in the habit of not contesting the matter and further submitted that the petitioner misuses the process of Court by filing this petition without any sufficient reason stated in the affidavit.

5.The learned Motor Accident Claims Tribunal by its order dated 30.06.2017, dismissed both the petitions. Challenging the same, revision petitioner has filed this petition.

6.Heard the counsel on either side.

7. On perusal of the order passed in the impugned petitions, it is seen that the revision petitioner/Transport Corporation has been habitually keeping themselves away from the proceedings. The first incidence of the ex-parte order was on 13.03.2013, when they have failed to file the counter. The ex-parte order came to be passed on 13.03.2019. Thereafter, the corporation have filed the petition dated 05.09.2014 to set aside the ex-parte award and the same was allowed on 13.02.2014, thereafter, P.W.1 and P.W.2 were examined and the matter was posted for the respondents evidence on 09.12.2015. The revision petitioner did not produce any evidence and the case was adjourned to 07.01.2016 and 22.01.2016. Since the evidence was not produced on 22.01.2016, the evidence on the side of the first respondent was closed and the matter was posted for arguments on 01.02.2016. Thereafter, the petitioner filed an application to re-open the evidence which was allowed on 09.08.2016. Once again the matter was posted on 19.08.2016 and then adjourned to 29.08.2016 and later to 06.09.2016. Since, the revision petitioner had not produced any evidence on 06.09.2016, the petitioner was set ex-parte and ultimately, the award was passed on 17.09.2016.

8. Therefore, it is seen that there was delay at every stage from filing counter, evidence and arguments. There was a deliberate attempt on the part of the Transport Corporation not to participate in the proceedings. The present petition is third of its kind and the petitioner wants to delay the proceedings. This Court is inclined to confirm the order passed by the learned Chief Judge, Motor Accident Claims Tribunal, Chennai in M.P.No.773 and 774 of 2017.

9. The civil revision petition stands dismissed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

26.03.2019

Index: Yes/No
AT

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P.T.ASHA,J.

AT

To

1.The Chief Judge, Small Causes, Chennai
(Motor Accident Claims Tribunal)

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