

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

C.R.P. (NPD) No. 773 of 2018

M.D.Mukund Arvind

...Petitioner

Vs

1. K.Bhoopathy

2. ICICI Lombard General Insurance
Company Limited, No. 84 & 85, Arihant Plaza,
Walltax Road, Chennai - 600 003.

...Respondents

Prayer: Civil Revision Petitions filed under Section 115 of Civil Rules of Practice, to set aside the decree and order dated 18.01.2018 made in M.P.No.3814 of 2017 in M.C.O.P.No.1159 of 2011 on the file of Motor Accident Claims Tribunal, Chennai [in the Court of Small Causes, Chennai].

For Petitioner : M/s.S.Jayasankar

For Respondents : Mrs.R.Sreevidhya (for R.2)
No appearance for R.1

ORDER

The order under challenge in the present revision is rejection of the petitioner's application filed under Section 5 of the Limitation Act to condone the delay of 1,668 days in filing an application to set aside the exparte order of

dismissal.

2. The reason assigned by the petitioner herein before the Tribunal is that due to the injuries sustained by the claimant, he had partially lost his memory and hence had totally forgotten about the case. The Tribunal had in one line cryptic order dismissed the said application stating that the “delay had not been sufficiently explained.”

3. In an application seeking for condoning an inordinate delay, there is duty cast on the Tribunal to discuss the reasons assigned by the applicant for the delay caused and such an application can be rejected only after giving proper explanation and justification for its rejection.

4. In the present case, the Tribunal had not discussed any of the reasons cited by the petitioner. As a matter of fact, the reason assigned by the petitioner herein that he had a partial memory loss due to accident seems to be acceptable and the Tribunal ought to have atleast discussed about the reasons assigned.

5. As such, I do not find any justification for the non-speaking rejection order. Consequently, the order dated 18.01.2018 passed in MP

No.3814/2017 in MC No.1159/2011 is set aside and the delay of 1,668 days in filing the petition to set aside the exparte order of dismissal dated 02.04.2013 is condoned.

6. At this juncture, the learned counsel for the respondent submitted that since the delay as such is inordinate, they may be given liberty to have the interest, if any ordered, waived. This Court is also of the view that the petitioner should not be given the benefit of the interest on the award amount, if any for the period of delay.

7. Hence, it would be open to the respondent herein to seek for waiver of interest for the delay of 1,668 days in filing the application to set aside the exparte decree.

8. Accordingly, the present Civil Revision Petition stands ordered. No costs.

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Index:Yes/No

Speaking Order: Yes/No

mrm

M.S.RAMESH.,J

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