

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (NPD) No.2266 of 2018

Minor T.Sasikumar
S/o. Thangarasu
Rep. By next friend / father
Thangarasu

... Petitioner

Vs

1. P.Bhoopathi

2. S.Selvaraj

3. The Branch Manager,
National Insurance Company Ltd.,
Palaniappa Complex,
1271-1272, Mettur Road,
Erode.

... Respondents

Prayer: The Civil Revision petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order, dated 30.10.2017 made in I.A No.70 of 2017 in M.C.O.P. No.89 of 2008 on the file of the Principal Sub Court, Erode, by allowing this Civil Revision petition.

For Petitioner : Mr.Harish for
Mr.N.Manokaran

For Respondents : Mr.J.Chandran for R3
No appearance for R1 and R2

ORDER

The challenge in this revision is to an order of the Motor Accidents Claims Tribunal, Erode, dismissing an application for condonation of delay of 2410 days in filing an application seeking restoration of the claim petition that was dismissed for default on 06.08.2010.

2. The petitioner met with an accident on 22.11.2007. Claiming that he had suffered grievous injuries, the petitioner sought for a compensation of Rs.3,10,000/-. The said claim petition came to be dismissed for default on 06.08.2010. The claimant who is a minor has filed the instant application seeking condonation of delay of 2410 days in restoration of the claim petition.

3. The reasons assigned is that the petitioner was affected by Jaundice. The Tribunal held that the delay has not been sufficiently explained and dismissed the petition for condonation of delay.

4. I have heard Mr.Harish for Mr.N.Manokaran, learned counsel for the petitioner and Mr.J.Chandran, learned counsel for R3/Insurance Company. Though notice has been served to respondents 1 and 2, they are not appearing either in person or through counsel duly instructed.

5. Mr.Harish, learned counsel appearing for the petitioner would vehemently contend that the Tribunal was not justified in dismissing the application. According to him, the Tribunal ought to have adopted a liberal approach and allowed the application seeking condonation of delay.

6. No doubt, the conclusions of the trial court that the delay has not been properly explained, cannot be faulted. But considering the fact that the claimant is a minor and the fact that he was injured due to the accident being admitted, I am of the considered opinion, the petitioner

should be given an opportunity to prosecute the Original petition on merits. Hence, the delay is condoned. However, it is made clear that the petitioner will not be entitled to interest from the date of the dismissal namely 06.08.2010 till today.

7. Considering the fact that the delay of 2410 days is condoned, the application for restoration of MCOP is also allowed, invoking power under Article 227 of the Constitution of India. The Civil Revision petition is therefore allowed. MCOP No.89 of 2008 will stand restored, subject to the above stated condition that the petitioner will not be entitled to interest for the period of from 06.08.2010 till today i.e., 11.11.2020. The Tribunal is directed to restore the original claim petition and dispose of the same within a period of six months from the date of resumption of physical hearings in the Courts at Erode. No costs.

11.11.2020

Note: Time bound order

vum

Index: Yes/No

Speaking order / Non speaking order

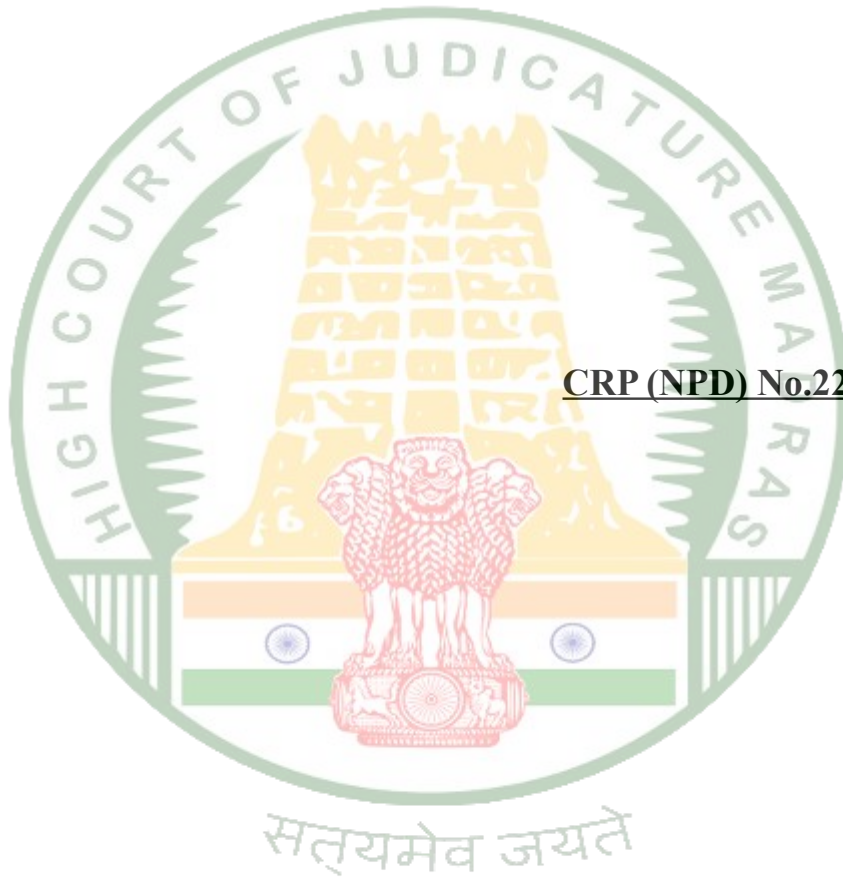
To

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The Principal Sub Court, Erode

R.SUBRAMANIAN, J.

vum



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