

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (NPD) No.2380 of 2018

V.Chinnammal

... Petitioner

Vs

1. D.Shyla shree

2. National Insurance Co Ltd.,
No.751, Anna Salai,
III floor, Chennai – 02.

... Respondents

Prayer: The Civil Revision petition filed under Article 227 of the Constitution of India, praying to set aside the order made in M.P. No.2150 of 2012 in M.C.O.P. No.2651 of 2005, dated 20.10.2017 on the file of the Motor Accident Claims Tribunal (II Small Causes Court), Chennai.

For Petitioner : Mr.K.Varadha kamaraj

For Respondents : Mrs.N.B.Surekha (for R2)

ORDER

This revision is directed against an order, dismissing an application filed by the petitioner, seeking condonation of delay of 1336

days in filing a petition to restore MCOP No.2651 of 2005 which was dismissed for default on 24.10.2008.

2. The said MCOP was filed by the petitioner seeking compensation of Rs.4 lakhs for the injuries suffered by him in a road accident that occurred on 15.02.2005. The injuries stated are three fractures and several multiple injuries all over the body. The reasons assigned by the petitioner for the delay is that he could not attend the Court due to illness and he could not inform his disability to his counsel.

3. No doubt, as rightly pointed out by the learned counsel for the respondent, the reasons assigned in the affidavit filed in support of the petition for condonation of delay is sketchy and does not explain the delay in great detail. However, taking into account that the accident is not denied and the fact that the petitioner suffered injuries is also not denied, I am of the considered opinion that the petitioner should be given an opportunity to prosecute the petition on merits. Dismissal of the Motor Accident Claims petition for default can only result in the petitioner losing the valuable right

to be compensated. I am therefore of the opinion that the Tribunal was not justified in dismissing the application for condonation of delay. The Tribunal should have allowed the application subject to condition that the claimant will not be entitled to interest for the period of default.

4. In view of the above, this Civil Revision petition is allowed. The application in M.P.No.2150 of 2012 will stand allowed. The delay of 1336 days in filing an application to restore MCOP No.2651 of 2005 is condoned. It is made clear that the petitioner will not be entitled to interest on the compensation awarded from 24.10.2008 till today i.e., 15.12.2020. Now that the delay has been condoned, I am of the opinion that further time could be saved by allowing an application to restore the Original petition by exercising power Under Article 227 of the Constitution of India.

5. The learned counsel for the Insurance Company though would have serious objections for condonation of delay, she magnanimously agrees that the original petition could be allowed by me to enable early disposal of the Original claim petition.

6. In view of the above, MCOP No.2651 of 2005 is restored to the file of the Motor Accident Claims Tribunal (II Small Causes Court), Chennai and the Tribunal is directed to dispose of the same within a period of six months from the date of resumption of physical hearings in the Small Causes Courts at Chennai. No costs.

15.12.2020

Note: Time bound order

vum

Index: Yes/No

Speaking order / Non speaking order

To:

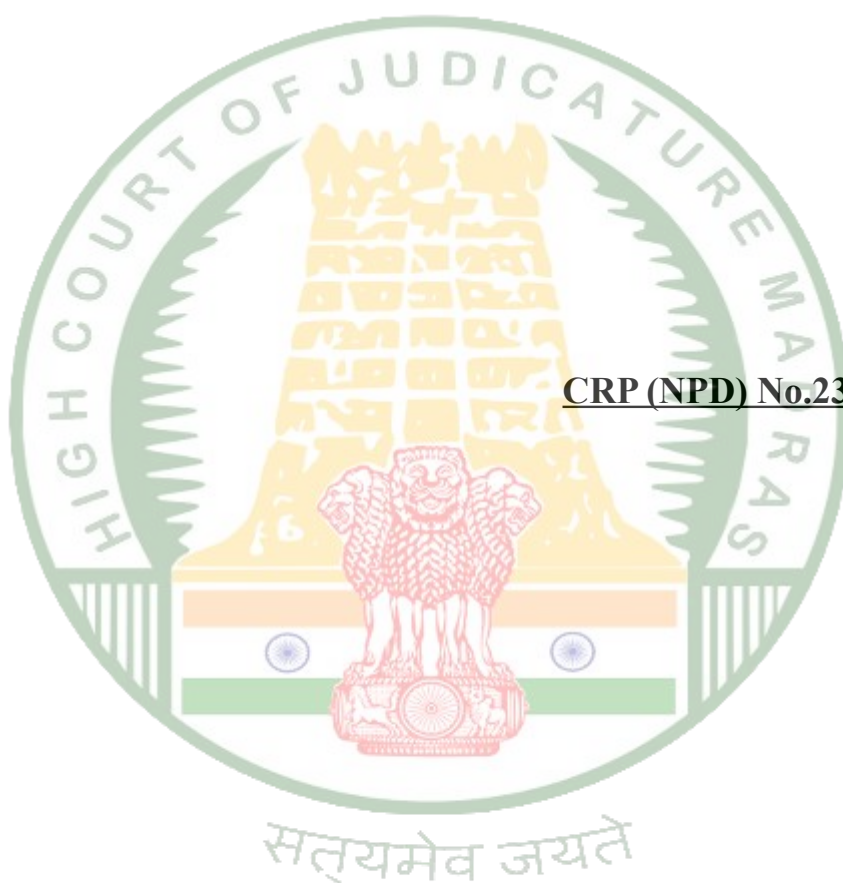
The Motor Accident Claims Tribunal
(II Small causes court) Chennai.



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R.SUBRAMANIAN, J.

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