



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM

C.R.P. (MD)No.1020 of 2011

WEB COPY

K.Senthilkumar

.. Petitioner / Petitioner / Petitioner /
Claimant

Vs.

1.K.S.Syed Rayathumma

2.The Divisional Manager,
United India Insurance Co.Ltd.,
Bhagavat Singh Road,
Paramakudi.

...Respondents / Respondents /
Respondents / Respondents 1 and 2

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 06.01.2011 in E.A.No.25 of 2010 in E.P.No.8 of 2002 in M.C.O.P.No.03 of 1994 on the file of the Motor Accident Claims Tribunal, Ramanathapuram (Sub Court, Ramanathapuram).

For Petitioner	: Mr.H.Lakshmi Shankar
For R-1	: Mr.P.Yasmin Begum
For R-2	: Mr.G.Prabhurajadurai

O R D E R

This revision is directed against the order of the Motor Accident Claims Tribunal (Sub Court), Ramanathapuram, passed in E.A.No.25 of 2010 in E.P.No.08 of 2002 in M.C.O.P.No.03 of 1994.

2.It appears that on behalf of the petitioner, a claim petition in M.C.O.P.No.03 of 1994 was filed before the Motor Accident Claims Tribunal (Sub Court), Ramanathapuram seeking compensation of Rs.80,000/- and the Tribunal awarded compensation of Rs.50,000/- together with interest at 12% p.a.

3.The claimant filed E.P.No.08 of 2002 for recovery of the compensation amount. In the meanwhile, the second respondent filed a Review Application in I.A.No.205 of 1996 questioning their liability to pay the compensation amount. The Motor Accident Claims Tribunal (Sub Court), by order dated 20.01.2004, dismissed both the Review Application as well as the Execution Petition. Thereupon, after a lapse of nine years, the claimant filed E.A.No.04 of 2011 to restore the Execution Petition by condoning the delay of 2005 days. Even though the Tribunal condoned the delay, however has held that the claimant is not entitled for interest from the date of dismissal and till the date of restoring the Execution. Aggrieved over the said



direction, the present revision has been filed.

4.Mr.H.Lakshmi Shankar, learned counsel appearing for the petitioner would urge that the interest awarded by the Tribunal cannot be altered or modified by the Executing Court. It is next contended by the learned counsel that while rightly dismissing the review application filed by the Insurance Company, the Tribunal has wrongly dismissed the Execution Petition.

5.Per contra, Mr.G.Prabhurajadurai, learned counsel appearing for the second respondent / Insurance Company and Ms.P.Yasmin Begum, learned counsel appearing for the first respondent / owner of the vehicle would contend that the order passed by the Tribunal does not require any interference of this Court, as the condition was imposed taking note of the enormous delay in filing the application to restore the Execution Petition.

6.This Court is unable to agree with the submission of the learned counsel for the petitioner for the reason that the award was passed in the year 1996 and the Execution Petition was laid after a lapse of six years and the Execution Petition came to be dismissed on 20.01.2004. The Hon'ble Apex Court in number of decisions have categorically held that the Courts can take liberal approach in condoning the delay of shorter duration and in the case of longer delay, there should be proper explanation for condoning the delay.

7.In the matter on hand, except stating that the Tribunal has wrongly dismissed the Execution Petition, no explanation was offered by the petitioner for condoning the enormous delay. This indicates that the petitioner was not vigilant in prosecuting the Execution Petition. The Tribunal, taking note of the entire facts and circumstances of the case, has passed the order impugned in this revision petition. Therefore, I find no illegality or irregularity in the discretionary jurisdiction exercised by the Tribunal. However, considering the facts and circumstances of the case, the second respondent / Insurance Company shall pay the interest at 6% for the period between 2004 to 2011.

8.With the above modification, this Civil Revision Petition is disposed of. No costs.

Sd/-

Assistant Registrar ()

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/ /2020

Sub Assistant Registrar(CS)



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To

1.The SubOrdinate Judge,
Motor Accident Claims Tribunal, Ramanathapuram,
(Ramanathapuram).

2.The Section Officer
V.R Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.H. LAKSHMI SHANKAR, Advocate (SR-16294[F] dated
09/09/2020)

+1 CC to M/s.G. PRABHU RAJADURAI, Advocate (SR-16311[F] dated
09/09/2020)

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