

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(PD)No.1937 of 2021
and C.M.P.No.15025 of 2021
(Through Video Conference)

Periasamy

...Petitioner

Versus

HDFC Ergo General Insurance
Company Limited,
Divisional Office,
Salem.

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Fair and Decretal order dated 27.01.2021 made in I.A.No.2 of 2020 in M.C.O.P.No.224 of 2019 on the file of Additional District Court, Hosur.

For Petitioner : Mr.C.Prabakaran

ORDER

This Civil Revision Petition is filed to set aside the order passed in I.A.No.2 of 2020 in M.C.O.P.No.224 of 2019 on the file of Additional District Court, Hosur dated 27.01.2021.

2. The learned counsel for the petitioner submitted that the petition was filed in M.C.O.P.No.224 of 2019 claiming compensation for the injuries suffered by the petitioner in a road accident.

3. The respondent Insurance Company has not filed any counter and therefore, was set as ex-parte. That order was set aside in a petition filed by the respondent. Subsequently, counter was not filed and the respondent was again set ex-parte and Award was passed. The respondent filed I.A.No.2 of 2020 for setting aside the ex-parte order.

4. The learned Additional District Judge, Hosur, without considering the fact that the respondent was already set ex-parte for not filing the counter, now, filed this petition again to set aside the ex-parte order allowed the petition without imposing costs. Therefore, the order is liable to be set aside.

5. Considering the submissions, it is seen from the affidavit filed in support of I.A.No.2 of 2020 that the respondent could not file counter because it has not received the investigation report. Therefore, there is a delay of

preparation of counter and filing of counter and that resulted in non-filing of the counter and consequently, an ex parte order was passed. Now, the respondents filed a counter along with the petition to set aside the ex parte order.

6. The learned Additional District Judge, Hosur has also also taken this fact into account at the time of disposing I.A.No.2 of 2020. The respondent is an Institution. This Court finds that there is valid reason for not filing the counter in time that the respondent has not received the investigation report for the preparation of counter. Now, the respondent filed counter along with the ex parte order set aside the petition. Therefore, this Court does not want to interfere with the order of the learned Additional District Judge, Hosur and the order of the learned Additional District Judge, Hosur stands confirmed.

7. Accordingly, with the above directions, the **Civil Revision Petition is Dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

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21.09.2021

Index: Yes/ No

Speaking Order / Non-Speaking Order

sts/jai

G.CHANDRASEKHARAN, J.,

sts/jai

To:
The Additional District Judge,
Hosur.



Order made in
C.R.P.(PD)No. 1937 of 2021

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