

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD).No.3015 of 2015
and M.P.No.1 of 2015

U.Poongavanam Petitioner

Vs.

1. Sridhar
2. Venkatasami @ Sivaraman
3. United India Insurance Co.Ltd.,
A.R.Complex, II-Floor,
No.1090, T.H.Road,
Chennai - 84.
(No relief claimed against
respondents 2 & 3)

... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 28.05.2015 made in I.A.No.4 of 2015 in W.C.No.450 of 2005 on the file of the learned Commissioner for Workmen Compensation (DCL-I) at Chennai and allow the revision petition.

Amicus Curiae : Mr.K.M.Ramesh
For Petitioner : Mr.A.Anand
For M/s.Anand and Suryas
For Respondents : No appearance

ORDER

This Civil Revision Petition is directed as against the order dated 28.05.2015 passed by the learned Commissioner for Workmen Compensation (DCL-I) at Chennai in I.A.No.4 of 2015 in W.C.No.450 of 2005, thereby allowing the condone delay petition as well as the set aside the exparte order.

2. The petitioner is the claimant, he filed petition as against the respondents 1 & 2 to the tune of Rs.4,15,500/- before the Commissioner of Workmen Compensation (DCL-I) Chennai. After receipt of the notice from the claim petition, the first respondent did not appear before the Deputy Commissioner of Labour and the second respondent appeared and contested the matter. Since the first respondent was absent, he was set exparte and the exparte order was passed on 22.10.2008. Thereafter, an award was passed on 03.11.2009, thereby directing the respondents 1&2 to pay a compensation of Rs.4,50,500/- jointly. The second respondent complied the award and deposited a sum of Rs.2,25,250/- and the same was also permitted to withdraw by the petitioner. While being so, the first respondent

herein filed petition to set aside the exparte decree along with the petition to condone delay of 2253 days. The Commissioner for Workmen Compensation (CSL-I), Chennai allowed the above petitions as against which the petitioner filed this present Civil Revision Petition.

3. On 12.03.2020, this Court requested the Counsel Mr.K.M.Ramesh and Mr.S.Ravindran to assist this Court in respect of the maintainability of the Civil Revision Petition. Mr.K.M.Ramesh, the learned counsel submitted that the first respondent filed petition to condone delay in filing the petition to set aside the exparte order as such, the Civil Revision Petition under Section 227 of the Constitution of India is very much maintainable. Accordingly, this Civil Revision Petition is maintainable as against the order passed in I.A.No.4 of 2015 in W.C.No.450 of 2005, by the learned Commissioner for Workmen Compensation (DCL-I) at Chennai, thereby allowing the condone delay petition and the petition to set aside the exparte order.

4. On perusal of the affidavit filed in support of the condone delay petition it revealed that, the first respondent was admitted in the hospital for various ailments on 19.10.2011 and thereafter, he was discharged on 22.10.2011. Therefore, he could not be able to appear before the Deputy Commissioner of Labour on 22.10.2008. In fact, he engaged his counsel before the Deputy Commissioner of Labour and thereafter, he failed to appear. Except the said reasons, no other reasons have been stated to condone the huge delay of 2253 days.

5. As rightly pointed out by the learned counsel appearing for the petitioner, part of the award complied with by the second respondent herein and the same was also permitted to withdraw and the petitioner was withdrawn the half of the award amount. At that juncture, the first respondent came forward with the petition to set aside the exparte decree dated 22.10.2008 along with the condone delay petition.

6. That apart, the first respondent did not even choose to challenge the award in the manner known to law even till today. In the order

passed by the Deputy Commissioner of Labour revealed that it was allowed only on the ground that the Hon'ble Supreme Court of India held in many cases that the parties should be given opportunity of hearing for final disposal. Except the said reason, no other reason has been mentioned by the Court below. The first respondent is failed to satisfy the Court below with sufficient reasons to condone the huge delay of 2253 days in filing the petition to set aside the exparte order. Therefore, the order passed by the Court below is perverse and illegal and liable to be set aside.

7. In view of the above discussion, the order dated 28.05.2015 passed by the learned Commissioner for Workmen Compensation (DCL-I) at Chennai in I.A.No.4 of 2015 in W.C.No.450 of 2005, is hereby set aside. Accordingly, the Civil Revision Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts

G.K.ILANTHIRAIYAN, J.

rts

To

1. The Commissioner for
Workmen Compensation (DCL-I)
Chennai.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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