

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2021

CORAM

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

CRP.NPD.No.1581 of 2018
and CMP.No.8543 of 2018

1.Saminathan
2.Kathirvel

..Petitioners

Vs.

Logamanigandan

..Respondent

PRAYER:

The Civil Revision Petition is filed under Section 115 of CPC against the docket order in EP.No.48 of 2015 in MCOP.No.424 of 2013 dated 19.02.2018 on the file of the Principal Sub Court, Tindivanam.

For Petitioners : M/s.Vennila Thambidurai
for Mr.M.Venkateswaran

For Respondent : Mr.P.Sankaranarayanan

ORDER

WEB COPY

This civil revision petition is filed against the docket order passed in EP.No.48 of 2015 in MCOP.No.424 of 2013 dated 19.02.2018 on the file of the Principal Sub Court, Tindivanam, thereby

dismissing the petition to condone the delay in filing the petition to set aside the exparte decree.

2. The petitioners are the respondents and the respondent is the claimant. The respondent filed claim petition claiming compensation of Rs.30,00,000/- for the injuries sustained by him. The first petitioner is the owner of the vehicle and the second petitioner is the driver of the vehicle. The respondent met with an accident with the second petitioner's vehicle and sustained grievous injuries. Thereafter, FIR was registered as against the second petitioner and registered in crime No.177 of 2013 and he was charge sheeted by the Inspector of Police, Brahmadesam Police Station, Tindivanam Taluk. In pursuant to the said accident, the respondent filed claim petition in MCOP.No.424 of 2013. Since the vehicle was not insured with any insurance company, the owner of the vehicle and the driver of the vehicle were arrayed as respondents in the claim petition. Though notice was served to the petitioners, they did not file any counter and as such they were set exparte and exparte award was passed, thereby awarded compensation of Rs.8,02,445/- with interest at the rate of 7.5 % from the date of petition against the petitioners jointly and severally liable to pay the said compensation to the respondent

herein. In pursuant to the award, the respondent filed execution petition in EP.No.48 of 2015. on receipt of notice from the execution petition, the petitioners filed petition to set aside the exparte decree with delay of 568 days.

3. On perusal of the affidavit filed in support of condone delay petition revealed that due to their avocation, they went out of the state and as such they could not able to appear before the Tribunal to defend the claim petition. Further stated that the criminal case also ended in acquittal as against the second petitioner by the judgment dated 16.07.2014 in CC.No.1788 of 2013 on the file of the Judicial Magistrate No.II, Tindivanam. Therefore, they have valid defence to defend the claim petition.

4. The learned counsel for the respondent would submit that though the Tribunal awarded only a sum of Rs.8,02,445/-, the respondent sustained grievous injuries and he had spent more than Rs.6 lakhs as medical expenditure.

5. Considering the above, the petitioners may be given one more opportunity to defend the claim petition on merits and in accordance with law. Accordingly, this civil revision petition is allowed and

the order passed in EP.No.48 of 2015 in MCOP.No.424 of 2013 dated 19.02.2018 on the file of the Principal Sub Court, Tindivanam is set aside on condition that the petitioners shall jointly deposit a sum of Rs.7,00,000/- (Rupees Seven Lakhs only) to the credit of MCOP.No.424 of 2013 and file their counter within a period of two weeks from the date of receipt of copy of this order. On receipt of the same, the Tribunal is directed to dispose of the claim petition within a period of three months thereafter. If the petitioners fail to deposit the amount as directed by this Court, the order passed by this Court shall stand automatically cancelled. Consequently, connected miscellaneous petition is closed. No order as to costs.

17.04.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
lok

सत्यमेव जयते
WEB COPY

To

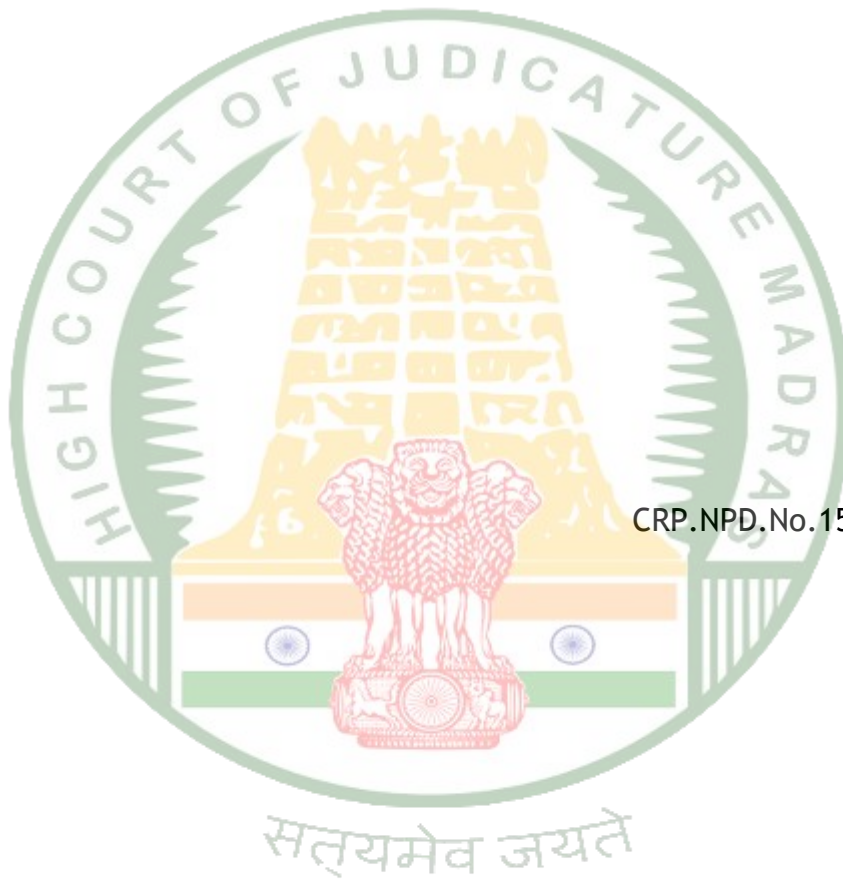
The Principal Subordinate Judge,
Tindivanam.



WEB COPY

G.K.ILANTHIRAIYAN,J.

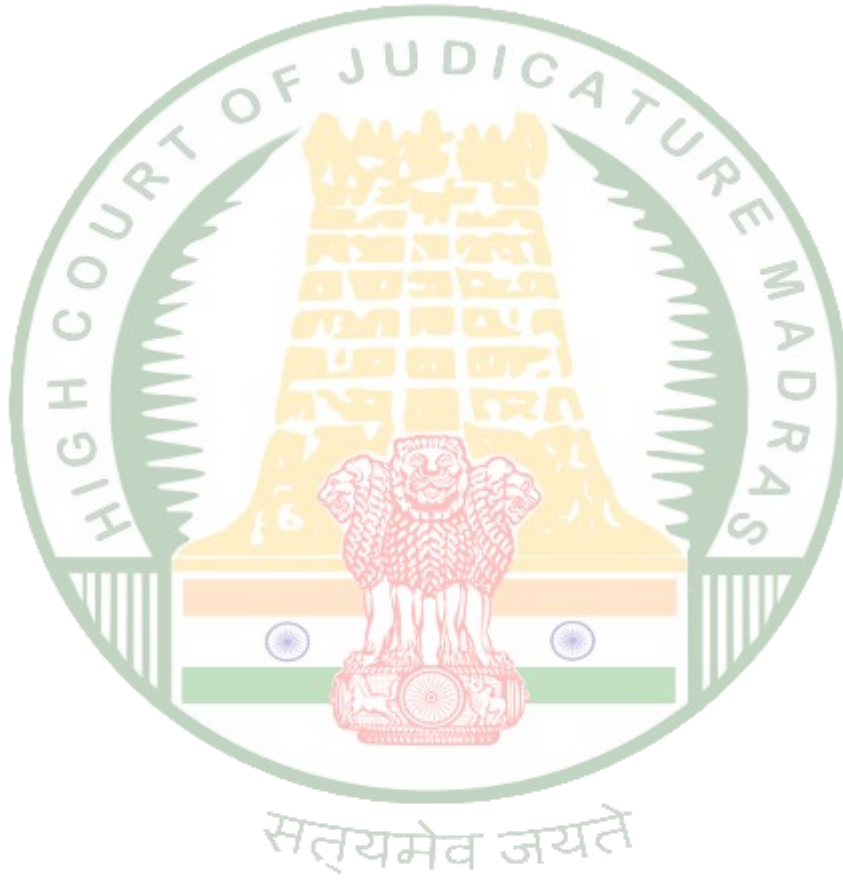
lok



CRP.NPD.No.1581 of 2018

WEB COPY

17.04.2021



WEB COPY