



C.R.P(NPD). No.426 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2022

CORAM

THE HONOURABLE **MS.JUSTICE P.T. ASHA**

C.R.P(NPD). No.426 of 2022

and

C.M.P. No.2180 of 2022

K.Sadhasivam

.. Petitioner

Vs

Karuppanna Gounder

.. Respondent

Prayer : Civil Revision Petition filed under Section 115 of Civil Procedure Code praying to set aside the Fair and Decreetal order dated 23.01.2021 in I.A.No.1932 of 2019 in M.C.O.P.No.282 of 2014 on the file of the Special Subordinate Judge, M.C.O.P. Tribunal, Erode.

For Petitioner : Mr.M.Guruprasad

ORDER

The second respondent before the Motor Accidents Claims Tribunal, Erode is the Revision Petitioner before this Court, challenging the dismissal of the application filed to condone the delay of 877 days in filing the petition to set aside the *ex-parte* award.



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2. The brief facts of the case are as follows:

The respondent herein had filed M.C.O.P.No.282 of 2014, claiming compensation for the injury sustained by him in a road traffic accident that had occurred on 06.12.2011. The accident was caused by the vehicle belonging to the revision petitioner/second respondent in M.C.O.P. and was driven by the first respondent therein. The petitioner had entered appearance and had been taking time for filing counter in the claim petition. On 17.02.2015, since the counter was not filed, he was set *ex-parte* and an *ex-parte* decree was passed on 01.04.2016 in the claim petition. The petitioner had thereafter came forward with an Interlocutory Application in I.A.No.1932 of 2019 seeking to condone the delay of 877 days in filing the petition to set aside the *ex-parte* decree. The reason adduced for the delay is that during the last week of January, 2015, the petitioner was affected by Jaundice and had been taking country treatment and therefore, he was unable to meet his counsel to give him instructions.



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3. Counter statement was filed by the respondent/claimant contending that before 17.02.2015, the matter was posted on five occasions for the counter of the petitioner and despite all these opportunities the petitioner had not come forward to file the counter. Therefore, he was set *ex-parte* and the decree came to be passed on 01.04.2016 i.e. after one year and 2 months. It is further contended that sufficient cause has not been given by the petitioner for the huge delay.

4. The Tribunal below after considering the records and hearing the arguments on both sides, held that the delay is an inordinate one and adequate reasons have not been given for the same. Therefore, the tribunal had dismissed the said application. The tribunal has also taken note of the age of the claimant, who was aged more than 70 years. Challenging this order, the revision petitioner is before this Court.



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5. The matter was listed today for admission and this Court heard the arguments of the learned counsel for the petitioner. As seen from the records, prior to petitioner being set *ex-parte* on 17.02.2015, the matter was posted on five different occasions for filing of counter statement and the revision petitioner had not come forward to file the counter statement. That apart, after he had been set *ex-parte* on 17.02.2015, the *ex-parte* award came to be passed only on 01.04.2016 i.e., after a period of nearly 1 year and 2 months. The petitioner has not stated as to how long he had been suffering from Jaundice. In the affidavit he would state that he had contracted Jaundice in the last week of January, 2015. No explanation is forthcoming as to why steps have not been taken between 17.02.2015 and 01.04.2016 and thereafter to set aside the *ex-parte* award. The conduct of the petitioner appears to show his supine indifference to the proceedings of the Court. The Tribunal has rightly rejected the petitioner's claim and there is no reason to interfere with the same.



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Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.02.2022

Internet : Yes/No
Index : Yes/No
Speaking/Non speaking
rsi

To

The Special Subordinate Judge,
Motor Accidents Claims Tribunal,
Erode.



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P.T. ASHA, J.

rsi

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