



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (MD)No.79 of 2022
and
C.M.P. (MD)No.401 of 2022

Mariyasundaram ... Petitioner

-VS-

1.Marimuthu

2.Krishnammal

3.The Manager,
Iffco Tokio General Insurance Company Ltd.,
3rd Floor, Tiripura Arcade,
Thiruvananthapuram Main Road,
Palayamkottai. ... Respondents

Prayer :- Petition filed under Section 115 of the Civil Procedure Code, to set aside the Fair and Decreetal Order dated 21.10.2021 in I.A.No.4 of 2021 in M.C.O.P.No.121 of 2015 on the file of the learned Motor Accident Claims Tribunal (Sub Court), Sankarankovil.

For Petitioner : Mr.K.Jeyamohan

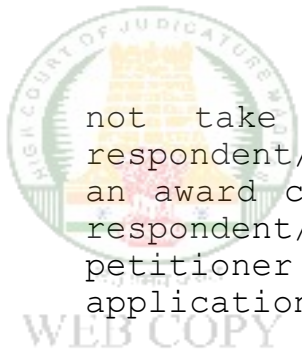
ORDER

The first respondent in a motor accident claim petition, whose application to condone the delay of 344 days in filing the petition to set aside the *ex parte* award, was dismissed, is the revision petitioner before this Court.

2.The facts in brief are as follows:-

(i) The respondents 1 and 2 herein had filed MCOP No.121 of 2015 on the file of the Motor Accident Claims Tribunal (Sub Court), Sankarankovil claiming compensation for the death of the father of the first claimant and the husband of the second claimant in a road accident involving the vehicle of the first respondent/revision petitioner belonging to the revision petitioner, which was insured with the third respondent herein.

(ii) The revision petitioner had entered appearance through counsel in response to the summons received by him. However, he did



not take steps to prosecute the case further. The third respondent/Insurance company had contested the case and ultimately an award came to be passed on 18.11.2019 after setting the first respondent/revision petitioner herein, ex parte. The revision petitioner has thereafter come forward with the impugned application.

(iii) In the affidavit filed in support of the petition he would submit that by award dated 18.11.2019, the third respondent was directed to pay a compensation of Rs.3,50,000/- to the respondents 1 and 2 and thereafter recover the said sum from the revision petitioner. The petitioner in his application would contend that he had come to know about the award only when he received the notice from the third respondent/Insurance Company enclosing the award. Therefore, he has come forward with the instant application.

(iv) The third respondent/ Insurance Company has contested the said petition by stating that the reason given in the petition that the revision petitioner was suffering from jaundice was totally false and the revision petitioner has not given any explanation for the delay. Therefore, the application is required to be dismissed.

(v) The learned Subordinate Judge, Sankarankovil, after hearing the parties, was pleased to dismiss the said application. The learned Judge has observed that ex parte award had been passed on 18.11.2019. The affidavit in support of the condone delay petition does not give any reason as to why steps have not been taken till the filing of the impugned petition. That apart, there is no reason given as to why the petitioner has not participated in the further proceedings of the claim petition after entering appearance initially. Challenging the said order, the revision petitioner is before this Court.

3.Heard the learned counsel for the petitioner and perused the records.

4.As rightly stated by the learned Subordinate Judge, Sankarankovil, there are no reasons given for the non-participation in the proceedings before the Motor Accident Claims Tribunal and as to why no petition had been moved from 18.11.2019, when the award was passed till the filing of the petition in question. The award has been passed after contest by the Insurance Company. It appears from the conduct of the petitioner that they were expecting the Insurance Company to be mulcted with the entire liability. Only when the Insurance Company had made a claim against him, the petitioner has come forward with the impugned petition. The petition therefore lacks bona fide and is bereft of adequate reasons. Accordingly, the order passed by the Motor Accident Claims Tribunal (Sub Court), Sankarankovil, does not deserve to be set



5. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note:-In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

The Subordinate Judge,
Motor Accident Claims Tribunal (Sub Court),
Sankarankovil.

+1 CC to M/s.K.JEYAMOHAN, Advocate (SR-2126[F] dated 24/01/2022)
C.R.P.(MD)No.79 of 2022 and
C.M.P.(MD)No.401 of 2022
Dated: 24.01.2022

RD(16.02.2022) 3P 3C