



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2022

CORAM

WEB COPY

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

C.R.P.(MD)No.2308 of 2017
and C.M.P.(MD)No.11180 of 2017

S.Abdul Samadu ... Petitioner/Petitioner/Respondent

Vs.

Muruganantham ... Respondent/Respondent/Petitioner

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records pertaining to I.A.No.1850 of 2017 in M.C.O.P.No.371 of 2013 dated 12.10.2017 on the file of the Motor Accidents Claim Tribunal/Special Subordinate Court, Thanjavur and set aside the same in so far as imposition of deposit of 50% of the award amount in concerned.

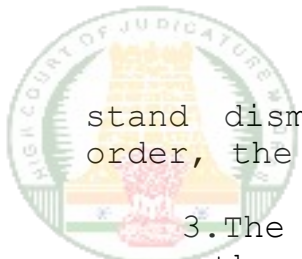
For Petitioner : Mr.D.Sadiqraja

For Respondent : Mr.N.Tamilmani

ORDER

The respondent before the Motor Accidents Claim Tribunal/Special Subordinate Court, Thanjavur is the revision petitioner before this Court challenging the conditional order passed by the Tribunal in condoning the delay in filing an application to set aside the ex-parte award.

2.It appears that the respondent/claimant had filed MCOP.No.371 of 2013 seeking compensation for road traffic accident caused due to the negligence of the revision petitioner herein by reason of which, the respondent/claimant had sustained injuries. He had claimed Rs.5 Lakhs as compensation. Since the petitioner herein had not appeared despite service of summons, an ex-parte award was passed on 06.02.2016. Thereafter, the respondent/claimant had filed execution proceedings in E.P.No.47 of 2017. The petitioner, who was served, entered appearance through counsel on 01.09.2017 and thereafter, filed a petition to set aside the ex-parte award along with a petition to condone the delay of 538 days. This condone delay petition was numbered as I.A.No.1850 of 2017 and the same had been allowed by order dated 12.10.2017 by the Tribunal. However, while allowing this petition the learned Judge had passed a conditional order directing the petitioner herein to deposit 50% of the award amount on or before 31.10.2017 failing which the petition would



stand dismissed automatically. Challenging this portion of the order, the petitioner has approached this Court.

3.The learned counsel appearing for the petitioner would rely upon the judgment reported in **2015 (4) CTC 346** in a case **R.Mathiazhagan and another Vs. P.J.Ethiraj and others** wherein, the Court had set aside the order imposing cost by stating that it was onerous.

4.In the instant case, the revision petitioner had sought to have the delay condoned on the ground that he has suffering from jaundice since 25.01.2016. The application for setting aside the ex-parte order has been filed with a delay of 538 days. It is incomprehensible as to how a person would suffer jaundice for over 538 days without any serious after affects of a prolonged spell of jaundice. However, the Tribunal in the interests of justice had condoned the delay and directed the petitioner only to deposit 50% of the award amount. The award amount is Rs.2,05,365/-. The learned Judge has consciously not directed payment to the claimant but, has only directed to deposit the amount more in the form of security for the respondent/claimant, who has suffered on account of the rash and negligent driving of the petitioner(which has to be rebutted and need to be proved by the petitioner herein).

5.Facts of the case reported in **2015 (4) CTC 346** relied upon by the learned counsel for the petitioner would not apply to the facts of this case, since the suit thereon was a suit for recovery of money on a commercial contract of over a sum of Rs.4.70 Crores and by the conditional order, the Court had directed the defendant to deposit the admitted liability of over a sum of Rs.3 Crores. This case may not be squarely applicable to the facts of the case on hand and is capable of being distinguished. Therefore, I do not find any reason to interfere with the order passed by the Motor Accidents Claim Tribunal/Special Subordinate Court, Thanjavur. Accordingly, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(T & P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

gns

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.

<https://hcservices.ecourts.gov.in/hcservices/>



To

The Motor Accidents Claim Tribunal/Special Subordinate Court,
Thanjavur

WEB COPY

+1 CC to M/s.N.TAMIL MANI, Advocate (SR-1412[F] dated 12/01/2022)

C.R.P. (MD)No.2308 of 2017
11.01.2022

NSN(CO)
TR(03.02.2022) 3P 3C