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CRP.No. 1574 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2023

CORAM:

THE HONOURABLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

CRP.No. 1574 of 2023

and

CMP.No. 10292 of 2023

The Managing Director
Tamil Nadu State Transport Corporation
(Madurai) Limited, Dindigul Region, Dindigul.

... Petitioner

Versus

1.K. Kasthuri
2.Bheem Sing Rawat
3.Babu

...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, prays to set aside the conditional order dated 06.03.2023 passed in M.P.No. 01 of 2022 in MCOP.No. 3865 of 2008 on the file of Chief Small Causes Court, Chennai.

For Petitioner : Mr.C. Gauthamaraj
For Respondents : Mr.K. Livingston



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ORDER

This Civil Revision Petition has been filed seeking to set aside the conditional order, dated 06.03.2023 passed in M.P.No. 01 of 2022 in MCOP.No. 3865 of 2008 on the file of Chief Small Causes Court, Chennai.

2. The revision petitioner herein is the 3rd respondent/Transport Corporation, the 1st respondent herein is the petitioner and the respondents 2&3 herein are the respondents 1&2 in the Motor Accident Claims Tribunal Original Petition.

3. The first respondent herein has filed MCOP.No.3865 of 2008 under Section 166 of the Motor Vehicles Act, before the Chief Court of Small Causes, Chennai, claiming compensation of Rs.5,00,000/- for the death of her daughter viz., Balasundari in a road accident. Before the Claims Tribunal, the respondents remained ex-parte. After scrutinizing the relevant records, the Tribunal awarded a compensation of Rs.5,40,000/- by order dated 26.02.2019 to the first respondent herein. Meanwhile, the revision petitioner/Transport Corporation filed M.P.No.



1 of 2022 under Section 5 of the Limitation Act, and under Section 151 of CPC, seeking to condone the delay of 1309 days in filing to set aside the petition in MCOP.No. 3865 of 2008, which was ordered as ex-parte dated 26.02.2019. After perusing the records, the learned Chief Judge, Court of Small Causes, Chennai, allowed the Miscellaneous Petition by order dated 06.03.2023 on condition that a sum of Rs.1,35,000/- should be deposited before the Tribunal by the revision petitioner/ Transport Corporation on or before 27.03.2023 *failing which the petition will stand dismissed*. Challenging the same, the revision petitioner/Transport Corporation has come forward with the present Civil Revision Petition under Section 115 of CPC.

4. Heard both sides and perused the materials available on record.

5. On a perusal of the records, it is seen that when the above MCOP was listed for hearing on 15.04.2009, since the case bundle got mingled with office files, the revision petitioner/Transport Corporation was not able to attend the hearing and to file a counter on that date.



Hence, the petitioner/Transport Corporation was set exparte by the Tribunal and final award was passed on 26.02.2019, directing the petitioner/Transport Corporation to pay a sum of Rs.5,40,000/-. Subsequently, the revision petitioner filed MP.No. 1 of 2022 in the above said appeal seeking to condone the delay to set aside the exparte award passed by the Tribunal. After perusing the records, the Tribunal allowed the petition on condition that the Transport Corporation to deposit a sum of Rs.1,35,000/- before the Tribunal on or before 27.03.2023 failing which the petition will stand dismissed. It is further seen that the first respondent has filed EP.No.743 of 2022 based on the award passed by the Tribunal.

6. Despite the notice of appearance served to the revision petitioner/Transport Corporation and the same was evaded by them and they were set ex-parte on 15.04.2009. Till now, the Transport Corporation had not taken any steps to set aside the order dated 15.04.2019 for more than 10 years. The Tribunal had passed an award of Rs.5,40,000/- against the revision petitioner/Transport Corporation, dated 26.02.2019. Hence, the 1st respondent was aged about 75 years and



she lost her daughter on 03.06.2007 in a road traffic accident caused by the driver of the Transport Corporation. Pursuant to the award passed by the Tribunal, the 1st respondent has filed EP.No.743 of 2022 for attachment of moveables of the Transport Corporation, at this stage, the Transport Corporation has approached the Court to set aside the exparte decree dated 26.02.2019 with a delay of 1309 days.

7. It is also seen that the accident had occurred in the year 2008 and the award was passed by the Trinunal in the year 2019. After a lapse of four years, the Transport Corporation has not complied with the conditional order passed by the Tribunal, dated 26.02.2019. Hence, this Court is not inclined to set aside the order passed by the Tribunal. However, already the MP.No.1 of 2022 filed by the Transport Corporation was dismissed. Therefore, this Court is of the view that the revision petitioner/Transport Corporation is directed to pay a sum of Rs.1,35,000/- before the Tribunal without any further delay.



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8. Considering the above facts and circumstances of the case, this Court and in the interest of justice directs the revision petitioner/Transport Corporation to pay a sum of **Rs.1,35,000/- [Rupees One Lakh Thirty Five Thouand Only]** before the Tribunal on or before 10.08.2023, in default, it is open to the 1st respondent herein to proceed with the excution proceedings against the revision petitioner/Transport Corporation in the manner known to law.

9. Accordingly, the Civil Revision Petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

26.07.2023

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

MSM

To

1. The Chief Small Causes Court, Chennai.

2. The Section Officer, V. R. Section, High Court of Madras.



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V.BHAVANI SUBBAROYAN, J

msm

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