



WEB COPY

C.R.P.No.2285 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.2285 of 2022

and

C.M.P.Nos.19807, 19812 and 19815 of 2022

Latha

... Petitioner

Vs.

1.V.S.Shanmugavel

2.The United India Insurance Co. Ltd.,

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed by the learned Subordinate Judge, Mannarkudi dated 11.03.2020 in I.A.No.2 of 2019 in I.A.No.17 of 2017 in M.C.O.P.No.9 of 2015 and consecutively allow the Restore Petition bearing I.A.No.2 of 2019 in I.A.No.17 of 2017 in M.C.O.P.No.9 of 2015 on the file of the learned Subordinate Judge, Mannarkudi.

For Petitioner : M/s.Dheepakshi
For Mr.S.Manoharan

For R1 : Died - Steps taken

For R2 : No appearance



ORDER

The Civil Revision Petition is filed to set aside the order passed in I.A.No.2 of 2019 in I.A.No.17 of 2019 in M.C.O.P.No.9 of 2015.

2. The revision Petitioner is an accident victim, who filed M.C.O.P.No.9 of 2015, seeking compensation under the Motor Vehicles Act, 1988. The Motor Accidents Claims Tribunal dismissed the Interlocutory Application for default filed in I.A.No.17 of 2017 to implead the Legal Heirs of the deceased Shanmugavel and the Interlocutory Application in I.A.No.2 of 2019 was filed to restore the dismissal order in I.A.No.17 of 2017, which was also dismissed.

3. The Trial Court found that the reasons stated are insufficient for the purpose of restoring the Motor Accidents Claim Petition and accordingly, dismissed the said Interlocutory Application. Thus, the petitioner has chosen to file the present Civil Revision Petition.



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4. The learned counsel for the petitioner made a submission that the Interlocutory Application in I.A.No.2 of 2019 was filed to restore the dismissal order passed in I.A.No.17 of 2017 in M.C.O.P.No.9 of 2015. The Interlocutory Application in I.A.No.17 of 2017 was filed to implead the Legal Heirs of the deceased Shanmugavel / 1st respondent and the said Interlocutory Application was dismissed for default.

5. This Court is of the considered opinion that the petitioner instituted M.C.O.P seeking compensation for the accident occurred. The petitioner is an accident victim and therefore just compensation need not be denied merely on such technical grounds. When the I.A.No.17 of 2017 was dismissed for default, the restoration petition was filed on time and there is no reason to deny an opportunity to the petitioner to adjudicate the accident claim petition on merits. Meanwhile, the 1st respondent had also died and the petition was filed to implead the Legal Heirs of the 1st respondent / Shanmugavel.



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6. Thus, the Trial Court ought to have allowed the petitions, considering the fact that the revision petitioner is an accident victim and just compensation as ensured under the provisions of the Motor Vehicles Act need not be denied to the revision petitioner. More so, the petition for restoration cannot be dismissed merely on such technical grounds and thus, this Court is inclined to consider the Civil Revision Petition.

7. Accordingly, the order dated 11.03.2020 in I.A.No.2 of 2019 in I.A.No.17 of 2017 in M.C.O.P.No.9 of 2015 is set aside and the Civil Revision Petition in C.R.P.No.2285 of 2022 stands allowed. No costs. Consequently, all the Civil Miscellaneous Petitions are allowed.

03.02.2023

skr

Index : Yes

Speaking order

Neutral Citation : Yes



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To
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The Subordinate Judge,
The Subordinate Court,
Mannargudi.



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S.M.SUBRAMANIAM, J.

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