



C.R.P.No.3670 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.3670 of 2022

and

C.M.P.No.19453 of 2022

P.Uma Maheshwari

..

Petitioner

Vs

1.D.Peter Raj

2.National Insurance Company,
Limited, Motor 3rd Party HUB
No.751, Anna Salai, III Floor,
Chennai-600 002.

3.N.Usha Rani

4.S.Nandakumar

..

Respondents



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Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India seeking to set aside the order dated 25.04.2022 passed in M.P.No.4578 of 2019 in M.C.O.P No.7221 of 2013 pending on the file of the Motor Accidents Claims Tribunal, Chennai (II Court of Small Causes, Chennai) by allowing the present C.R.P.

For Petitioners : Mr.K.Bijay Sundar
For respondents : Mr.R.Ravichandran for R2 to R4

ORDER

The order dated 25.04.2022 in M.P.No.4578 of 2019 in M.C.O.P No.7221 of 2013 pending on the file of the Motor Accidents Claims Tribunal, Chennai (II Court of Small Causes, Chennai) is under challenge in the present Civil Revision Petition.

2. The Revision Petitioner is the widow of the accident victim and the grievances of the petitioner is that summon was not served to her in the M.C.O.P proceedings and therefore she cannot be able to participate in the



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process of adjudication. An ex-parte award was passed and thereafter the petitioner filed M.P.No.4578 of 2019 to condone the delay in setting aside the ex-parte decree. The delay of 289 days was sought to be condoned in the Miscellaneous Petition. Motor Accidents Claims Tribunal, Chennai, rejected the Writ Petition and thus the petitioner is constrained to move the Civil Revision Petition. The Tribunal has awarded a sum of Rs.61,62,800/- as compensation along with 7.5% interest from the date of petition till the date of deposit.

3. The Tribunal made a finding that the notice was sent to the Revision petitioner in M.C.O.P.No.7221 of 2013 which was returned as “not claimed” and thus, she was set ex-parte in the M.C.O.P. While passing award, the Tribunal apportioned award amount to be equally shared among the parties.

4. Learned counsel for the petitioner states that the apportionment was not done in accordance with law and therefore the right of the petitioner



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need not be denied to receive just compensation as per the procedure contemplated.

5. Learned counsel for the respondent raised an objection regarding condonation of delay, however, the learned counsel for the revision petitioner brought to the notice of this Court that the respondents have not raised any such objection before the Motor Accidents Claims Tribunal and they said no objection before the Tribunal and now raising an objection.

6. Learned counsel appearing on behalf of the Insurance company made a submission that the apportionment of the award was not done in a proper way in this Court. That being the factum, in the interest of justice, the delay is to be condoned enabling the Tribunal to apportion the award amount in accordance with law and accordingly settle the same.

7. Considering the facts and circumstances, this Court is of an opinion that the delay is to be condoned enabling the Tribunal to adapt



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correct apportionment for the purpose of settling the award to the claimants.

Accordingly, the order dated 25.04.2022 passed in M.P.No.4578 of 2019 in M.C.O.P No.7221 of 2013 is set aside.

8.Accordingly, the present Civil Revision Petition stands allowed.

There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

10.01.2023

Speaking Order/Non-Speaking Order.

Internet : Yes/No.

Index: Yes/No.

Neutral Citation: Yes/No

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Copy to:

The Motor Accidents Claims Tribunal,
Chennai (II Court of Small Causes, Chennai)



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S.M.SUBRAMANIAM, J.

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