



C.R.P(NPD)(MD).No. 733 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2023

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P(NPD)(MD).No. 733 of 2017
and CMP(MD)No.3373 of 2017

The Joint Director,
Health Services,
Usilampatti,
Madurai District

... Petitioner

Vs

1.Pandiyammal

2.Chellapandi

3.Pandilakshmi

4.Annakodi

....Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the Fair and Decreetal order, dated 05.04.2014 in I.A. No. 441 of 2012 in M.C.O.P. No. 1119 of 2005 on the file of the 5th Additional District Judge, Motor Accidents Claims Tribunal, Madurai by allowing this Civil Revision Petition.



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For Petitioner : Mr.M.Senthil Ayyanar
Government Advocate

For Respondents : Ms.A.Rajani

ORDER

To set aside the fair and decreetal order, dated 05.04.2014 in I.A. No. 441 of 2012 in M.C.O.P. No. 1119 of 2005 passed by the 5th Additional District Judge, Motor Accidents Claims Tribunal, Madurai, the revision petitioner has filed this Civil Revision Petition before this Court.

2.The petitioner is the 5th respondent and the respondents are the petitioners before the trial Court. For the sake of convenience, the parties are referred to as per the litigative status in the suit.

3.The brief facts which rise to the filing of instant civil revision petition are as follows:

(i)It appears that the respondents/petitioners have filed Motor Accident Claim Petition in respect of death of one Jeya, who is the mother of R1 to R3 and daughter of R4. In the said application, both side witnesses were examined and documents were marked. The petitioner/5th



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respondent was set exparte for not filing counter statement. Ultimately, an Award was passed on 04.07.2008 by awarding a sum of Rs.3,90,000/- along with 9% simple interest. The 50% of award amount was directed to be paid by the first and second respondents jointly and severally. Similarly, the remaining 50% of award amount was directed to be paid by the fourth and fifth respondents jointly and severally.

(ii) It appears that after Award is being passed, in the year 2012 the petitioner/5th respondent herein has filed an application for condonation of delay in filing the application to set aside the exparte order. The ground urged by the petitioner/5th respondent is that on account of usual transfer in the office, the person who followed up the case has not properly informed the same to his successor, who has newly joined. The said application was resisted by the respondents/petitioners. However, the learned trial Judge has given a finding that in a Government establishment such a vague ground cannot be taken, and ultimately, disbelieved the statement of the petitioner and dismissed the application.

(iii) Aggrieved with the order, the petitioner/5th respondent has filed the present revision petition.



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4.The learned Government Advocate would vehemently submit that, the order of the Court below is liable to be interfered with. Further submitted that the very application would be allowed by imposing costs against him. Therefore, the hardship if any faced by the respondents/petitioners would be compensated. He would further contend that the very non-appearance is only because of bonafide reasons and he would further submit that they have got a valid case in trial and there was no negligence on their part.

5.However, the learned counsel for the respondents would submit that the case is pending from the year 2005 and that the legal heirs of the deceased have been waiting to get the Award amount, for long years. Therefore, he submit that there is no justification for delay condonation.

6.I have given my anxious consideration to either side submission.

7.From the perusal of Award it is seen that the accident took place in the year 2003. The claim petition was filed in the year 2005, and the Award was passed on 04.07.2008. It is also pertinent to mention that



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though the petitioner/5th respondent was set exparte for not filing counter statement, one witness, viz., Raja was examined and two exhibits were marked on behalf of other respondents. Hence, the very order passed by the Court below in M.C.O.P.No.1119 of 2005 cannot be termed as an exparte order.

8.On perusal of the order, the learned trial Judge has elaborately discussed as to how the reason assigned by the petitioner could not be sufficient. As rightly observed by the Court below, since because an Officer has been transferred from the office cannot be a reason for not proceeding the case before the Court below. It is pertinent to mention here that delay is enormous, and more than 1350 days. This long delay may be the classic example to demonstrate the casual functioning of the official duty without any responsibility. Time and again this Court and the Apex Court reiterated that the Government Agency should be a model litigant. Here the conduct of this petitioner is other wise. In this background, while considering such delay, this Court could not find any justifiable reason to interfere with the order of the learned trial Judge.



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9.In the result, this Civil Revision Petition is dismissed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

03.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PNM

To

- 1.The 5th Additional District Judge,
Motor Accidents Claims Tribunal, Madurai.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN, J.,

PNM

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