



C.R.P.No.1233 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.1233 of 2024 and
C.M.P.No.6487 of 2024

The Manager,
The New India Assurance Company Limited,
Third Party Cell,
No.45, Moore Street,
Chennai-600 001.

... Petitioner

Vs.

1.R.Chandran
2.R.Anandan

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 09.02.2023 passed in M.P.No.1 of 2022 in M.C.O.P.No.6497 of 2016.

For Petitioner : Mr.R.Sivakumar

For R1 : Mr.C.Thomas Noble



C.R.P.No.1233 of 2024

ORDER

WEB COPY

This civil revision petition has been filed to set aside the impugned order, dated 09.02.2023 in M.P.No.1 of 2022 in O.P.No.6497 of 2016 passed by the learned VI Judge, VI Court of Small Causes, Chennai/Motor Accident Claims Tribunal, Chennai.

2.This Court on 04.07.2024 had passed the following order:

“The petitioner/second respondent in M.C.O.P.No.6497 of 2016 was set ex-parte on 15.03.2017 and the Tribunal passed an ex-parte award on 09.04.2019. Thereafter, the petitioner filed M.P.No.1 of 2022 to condone the delay of 1215 days in filing the petition to set aside the ex-parte order dated 09.04.2019, which was dismissed on 09.02.2023, against which, the present revision.

2.The learned counsel for petitioner/Insurance Company submitted that the first respondent/claimant is the cleaner in the container lorry bearing Registration No.TN-28-AD-3351. On 04.04.2013 at about 12.30 p.m., the said container lorry driven by one Kandan was proceeding from Chennai to Sriperumbudur along with the claimant. When the said Lorry proceeding near Poonamallee bye-pass road at Parivakkam



junction, the Tipper Lorry bearing Registration No.TN-73-B-1832, which was proceeding in front of the container lorry applied sudden brake. The driver of the container lorry was unable to control the vehicle and dashed from behind the Tipper lorry, in which, the first respondent sustained serious injuries, taken to Stanley Hospital and took treatment. The petitioner's company came to know about the ex-parte order only after receipt of E.P. Notice from the Court on 11.11.2019. Thereafter they caused an investigation and found that the accident was due to rash and negligent driving of the driver of the container lorry, which was insured with M/s.Royal Sundaram Alliance Insurance Company Ltd. Without arraying M/s.Royal Sundaram Alliance Insurance Company as party the claim was made against the petitioner's Insurance Company, which insured the Tipper Lorry.

3.The learned counsel for petitioner further submitted that during March, 2020, the petitioner filed a petition to condone the delay of 335 days in filing a set aside petition and the Registry of the Tribunal misplaced the petition during Covid-19 pandemic period. When the Court started functioning, the petitioner searched for the condone delay petition and the same was not traceable. Thereafter, same petition was filed on 05.09.2022. The Tribunal found a huge



delay and reason for delay not properly explained. Further, found that the earlier return not followed and after a lapse of two years, similar petition filed. Hence, dismissed the petition.

4.The contention of the petitioner is that for the mistake committed in the Tribunal, the petitioner-company not to be penalised. In support of his contention that the condone delay petition filed on 09.03.2020, the learned counsel produced E-Court adjudication copy, wherein it is recorded that “Counter of R2 filed. Respondent/R2 filed petition u/s.5 of Limitation Act with Order IX Rule XIII of C.P.C. and returned for enquiry adjourned to 31.03.2020’. He further submitted that from 30.03.2020 all Courts closed due to Covid-19 Pandemic and thereafter normal Court functioning resumed only in the year 2022. This fact, the Tribunal failed to consider. Hence, sought for setting aside the impugned order.

5.The learned counsel for the first respondent/claimant submitted that the injury sustained by the first respondent was to such an extent that his left hand amputated. He is running from pillar to post seeking some compensation for the loss of his left hand. He is now at the mercy of others and he is unable to do any work. He is not an educated person, he can do only physical labour and due to the accident, he has become unfit



for any work. He further submitted that in this case the petitioner was set ex-parte on 15.03.2017 and two years thereafter, an ex-parte award passed on 09.04.2019. According to the petitioner, during March, 2022 they filed a set aside petition, that itself is delay with four months. Thereafter M.P.No.1 of 2022 was filed on 05.09.2022. In M.C.O.P.No.6497 of 2016, the first respondent/claimant was awarded Rs.17,45,800/- as compensation. The first respondent/claimant filed an Execution Petition in E.P.No.1135 of 2019. Thereafter, the Insurance Company woke up and raised such objections. He further submitted that the purpose of insurance is to compensate the claimant adequately within time. Now for making the claimant running from pillar to post who lost his arm and earning capacity and for the sufferings he has undergone, appropriate safeguard to be provided since compensation awarded on 09.04.2019, but unable to receive due to the petitioner's objection.

6.Considering the submissions made and on perusal of the materials, it is not in dispute that the claimant travelling in the insured vehicle and the accident took place during the course of employment, in such circumstances he is statutorily covered under Section 147 of the Motor Vehicles Act and Employees Compensation Act. Further, the accident took place



in the year 2013, the pain and sufferings is sustained from then on and petitioner needs immediate relief and solace.

7.The learned counsel for the first respondent/claimant is agreeable to implead the owner of the tipper lorry bearing registration No.TN-73-B-1832 and the vehicle insurer, namely, M/s.Royal Sundaram Alliance Insurance Company.

8.The learned counsel for the petitioner admits that the claimant needs immediate relief and solace.

9.This Court directs the petitioner/Insurance Company to deposit a sum of Rs.10,00,000/- to the credit of M.C.O.P.No.6497 of 2016 on the file of VI Court of Small Causes/Motor Accidents Claims Tribunal, Chennai. On deposit of such amount, the prayer in this Civil Revision Petition can be entertained. This amount of Rs.10,00,000/- would be safeguarded with appropriate conditions imposed, once the conditional order is complied with.

10.It is made clear that after deposit of Rs.10,00,000/-, the first respondent/claimant to implead all necessary parties to the proceedings, who are tortfeasors and thereafter, the Tribunal to proceed in M.C.O.P.No.6497 of 2016 and decide



the case on its own merits. In the event of the petitioner/New India Assurance Company Limited is not liable to pay any insurance amount, the same can be recovered from the petitioner and appropriate orders can be passed by the Claims Tribunal by way of adjustment or reduction in the claim amount or by any other order.

11.This order is necessitated for the reason that the accident took place in the year 2013, the claimant's left hand has been amputated, Ex.C1/disability certificate issued by the Regional Medical Board assessed 80% partial permanent disability and functional disability is found to be 50% and considering the claimant's age at the time of accident being 19 years and also lock down of Courts during Covid-19 Pandemic situation from the year 2020-2022.

12.Accordingly, the petitioner/Insurance Company is directed to deposit a sum of Rs.10,00,000/- (Rupees Ten lakhs only) to the credit of M.C.O.P.No.6497 of 2016 on or before 12.07.2024. 13.Post the matter on 15.07.2024 'for Reporting Compliance'."



WEB COPY



C.R.P.No.1233 of 2024

THE NEW INDIA ASSURANCE CO. LTD
THIRD PARTY CLAIMS HUB,
232, N.S.C. BOSE ROAD,
BOMBAY MUTUAL BUILDING, VI - FLOOR,
CHENNAI -600 001

16.7.2024

Sir,

Reg.: MACT OP.NO. 6497/2016, CHENNAI COURT VI

PETITIONER : R.CHANDRAN
VS
RESPONDENTS : ANANDAN & NIA

Please find herewith RTGS / NEFT UTR NO. UTIBR52024071200485001 dated 12.7.2024 for Rs.10,00,000/- (RS. Ten lakhs only) in favour of The Registrar of small court causes, Chennai towards full satisfaction of the award passed in the above matter.

Sl. No.	Name of the Petitioner	Share Payable	Interest Payable	TDS on Interest	Net Amount
1	R.CHANDRAN		-	-	10,00,000/-

Kindly acknowledge .

for THE NEW INDIA ASSURANCE CO. LTD.

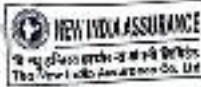


Manager



C.R.P.No.1233 of 2024

WEB COPY



Tphub71 : <na.suithub716000@newindia.co.in>

Fwd: RTGS is initlated with transaction reference no. **UTIBR52024071200485001**

ANGYARKANNI KRISHNAN <angyarkanni@newindia.co.in>
To: Tphub71 : <na.suithub716000@newindia.co.in>

Fri, Jul 12, 2024 at 5:15 PM

MARIA REGINA J <marialnaregina.j@newindia.co.in>

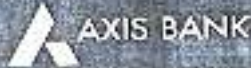
----- Forwarded message -----

From: alerts@axisbank.com <alerts@axisbank.com>

Date: Fri, Jul 12, 2024 at 4:02 PM

Subject: RTGS is initiated with transaction reference no. UTIBR52024071200485001

To: <angyarkanni@newindia.co.in>



12/07-2024

Dear Sir/Madam,

We wish to inform you, THE REGISTRAR MACT COURT OF SMALL CAUSES CHENNAI has RTGS for your Axis-bank XXX716 for an amount of INR 10,00,000.00 has been initiated with transaction reference no. UTIBR52024071200485001.

For further clarification regarding this message, please contact the concerned officials at THE NEW INDIA ASSURANCE COMPANY LIMITED.

Please note that the time taken for initiation and E in your account is dependent on settlement time and the time taken by your bank to process the transaction.

Always open to help you.

Regards,
Axis Bank Ltd.

*****This is an automated system-generated message. Please do not reply to this message.*****

DOCS INX- 07 2024

Reach us at:

 CHAT	 WEB Support	 Mobile App	 INTERNET BANKING	 WHATSAPP	 BRANCH LOCATOR
---	--	---	---	---	---

Copyright Axis Bank Ltd. All Rights Reserved. Axis Bank Limited 2024



C.R.P.No.1233 of 2024

6.The learned counsel for the petitioner submitted that the amount of Rs.10,00,000/- (Rupees ten lakhs only) can be handed over to the 1st respondent/claimant but with an condition that 50% *i.e.*, Rs.5,00,000/- can be paid immediately to the 1st respondent/claimant and the balance 50% can be deposited in a fixed deposit with liberty to the 1st respondent/claimant to receive periodical interest. Further, the 1st respondent/claimant shall give no objection to condone the delay of 1215 days in filing the petition to set aside the exparte order, dated 15.03.2017 so that the petitioner can file a petition to set aside the exparte award, dated 09.04.2019.

7.Considering the submissions and perusal of the materials, it is seen that in obedience to the order of this Court, dated 04.07.2024, the petitioner deposited Rs.10,00,000/- (Rupees ten lakhs only) in favour of The Registrar MACT Court of Small Causes, Chennai through RTGS on 12.07.2024.

8.In view of the above, the delay of 1215 days is condoned and the impugned order, dated 09.02.2023 in M.P.No.1 of 2022 in M.C.O.P.No.6497 of 2016 passed by the learned VI Judge, VI Court of



C.R.P.No.1233 of 2024

Small Causes, Chennai/Motor Accident Claims Tribunal, Chennai is set aside. The exparte order, dated 15.03.2017 passed by the learned VI Judge, VI Court of Small Causes, Chennai/Motor Accident Claims Tribunal, Chennai in M.C.O.P.No.6497 of 2016 is also set aside with the following conditions.

9.The learned VI Judge, VI Court of Small Causes, Chennai/Motor Accident Claims Tribunal, Chennai is directed to permit the 1st respondent/claimant to withdraw Rs.5,00,000/- (Rupees five lakhs only) *i.e.*, 50% of the amount deposited by the petitioner and to deposit the balance 50% amount in a nationalized bank as fixed deposit and to permit the petitioner to receive the interest periodically.

10.The 1st respondent/claimant is directed to file impleading petition to implead Mr.Umar Faruck, Owner of the Container Lorry bearing Reg.No.TN-28-AD-3351, its Driver and M/s.Royal Sundaram Alliance Insurance Company Limited who insured the said Container Lorry in M.C.O.P.No.6497 of 2016. After impleading, the learned VI Judge, VI



C.R.P.No.1233 of 2024

Court of Small Causes, Chennai/Motor Accident Claims Tribunal, Chennai

is directed to complete the proceedings in M.C.O.P.No.6467 of 2016 within a period of two months thereafter.

11.With the above directions, this civil revision petition stands disposed of. Consequently, connected civil miscellaneous petition is closed.

No costs.

23.07.2024

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

Index: Yes/No

Internet: Yes

vv2

To

The XXI Assistant Judge,
XXI Assistant City City Civil Court,
Chennai.

Note: Issue Order Copy on 31.07.2024.



WEB COPY



C.R.P.No.1233 of 2024

M.NIRMAL KUMAR, J.

vv2

C.R.P.No.1233 of 2024

23.07.2024