



C.R.P.No.1865 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.06.2024

PRONOUNCED ON : 06.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.1865 of 2024

and

C.M.P.No.9803 of 2024

Parveen Travels Private Limited
Rep. by its Managing Director,
Mr.Mohammed A Afzal
Purasavakkam, Chennai
Tamil Nadu – 600 007
Pondicherry Officer
No.288, Maraimalai Adigal Salai,
Muthumuzh Nagar
Puducherry – 605 005.
Respondent

... Petitioner /

Vs.

K.Pragash

... Respondent / Petitioner

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the Fair and Decreetal order in I.A.No.1 of 2023 in MACTOP No.298 of 2021, dated 23.01.2024, passed on the file of the Motor Accident Claims Tribunal at Puducherry.

For Petitioner : Mr.V.P.Chamuraj

For Respondent : Mr.E.V.Chandran



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ORDER

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Challenge in this Revision is to the Fair and Decreetal order in I.A.No.1 of 2023 in MACTOP No.298 of 2021, dated 23.01.2024, passed by the Motor Accident Claims Tribunal at Puducherry. filed under Section 5 of the Indian Limitation Act, to condone the delay of 633 days in filing a petition to set aside the exparte Award, dated 26.10.2021.

2. The respondent has filed a claim petition in M.C.O.P.No.298 of 2017, on the file of the learned Additional Motor Avvident Tribunal at Puducherry, seeking for compensation for the injuries sustained in the Road Accident.

3. Mr.V.P.Chamuraj, the learned counsel appearing for the petitioner / respondent would submit that the vehicle involved in the accident has valid Insurance Policy, but the respondent failed to initiate the claims as against the New India Assurance Company, which issued Insurance Policy. The petitioner was under the impression that the said Insurance Company would defend the case. It is only after filing of E.P., the petitioner came to know that an exparte award was passed on 26.10.2021. The delay is neither willful



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nor wanton. The learned counsel further submitted that the Court below passed a conditional order dated 11.12.2023, directing the petitioner to deposit a sum of Rs.2,00,000/-, if the petitioner wants to adjudicate the matter on merits, which is arbitrary, contrary to law and against the principles of natural justice. The Insurance for the vehicle is the subject matter of MCOP was in force, on the date of accident, vide Police No.71090031190100008154, as the coverage to the said policy was extended upto 03.07.2021 and the laid up documents were duly issued to the petitioner by the Insurer viz., The New India Insurance Co., Ltd., The Court below totally misconstrued that the petitioner appeared and contested the E.P.Proceedings and in fact, the petitioner appeared in the E.P. Proceedings at the later stage after the attachment order passed. The Court below wrongly came to the conclusion that there is no document to prove that valid Insurance Policy is available for the vehicle involved in the accident. Hence, the petitioner filed this Revision to set aside the Fair and Decretal order, dated 23.01.2024, passed by the Motor Accident Claims Tribunal at Puducherry.

4. Mr.E.V.Chandran, the learned counsel appearing for the respondent would submit that petitioner is the owner of the Bus,



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bearing Reg.No.TN-32-BY-2599, where the respondent travelled, which met with accident on 07.03.2021 in Trichy – Pudukottai Bypass Road, near 'Pomadimalai Soundhambiga School'. As a result of which, the respondent sustained grievous injuries. The respondent filed a claim petition in M.C.O.P.No.298 of 2021, before the Additional Motor Accident Claims Tribunal, Puducherry, claiming a sum of Rs.50,00,000/- as compensation for the injuries sustained by him. Though the petitioner served, not appeared and contested the case. Therefore, on 26.10.2021, ex-parte Award passed granting a sum of Rs.4,32,000/- as compensation to the respondent. To execute the said Award, the respondent filed E.P.No.263 of 2022, for attachment of movables. The petitioner, while contesting E.P.No.263 of 2022, filed an application in I.A.No.1 of 2023 in MACTOP No.298 of 2021, on the file of the Motor Accident Claims Tribunal, Puducherry, to set aside the Exparte Award with a delay of 633 days. To condone the said delay, the present application has been filed under Section 5 of the Limitation Act.

5. I have heard the learned counsels appearing on either side and perused the materials available on record.



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6. The undisputed facts are that the petitioner is the owner of the Bus, bearing Reg.No.TN-32-BY-2599, which met with accident on 07.03.2021. As a result of which, the petitioner along with other passengers sustained injuries. The respondent filed a claim petition in M.C.O.P.No.298 of 2021, before the Additional Motor Accident Claims Tribunal, Puducherry, claiming a sum of Rs.50,00,000/- as compensation for the injuries sustained by him. Though the petitioner served, he has not appeared and contested the case. Therefore, on 26.10.2021, an ex-parte Award passed granting a sum of Rs.4,32,000/- as compensation. To execute the said Award, the respondent filed E.P.No.263 of 2022, for attachment of movables. The petitioner, while contesting E.P.No263 of 2022, filed an application in I.A.No.1 of 2023 in MACTOP No.298 of 2021, on the file of the Motor Accident Claims Tribunal, Puducherry, to set aside the Exparte Award with a delay of 633 days. To condone the said delay, the present application has been filed under Section 5 of the Limitation Act. The only contention of the petitioner is that the bus involved in the accident was duly insured by the New India Assurance Company, which was not impleaded in the said claim petition. It is seen from the records that on 07.03.2021, the Omni Bus, bearing Res.No.TN-21-BY2599,



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while proceeding from Pondicherry to Karaikudi met with an accident. The petitioner / owner of the vehicle given particular of Insurance Policy Number of the Omni Bus as 71090031190100008154, and the coverage to the said policy was laid up from 25.03.2020 and laid up to date is 31.08.2020 and extended upto 03.07.2021.

7. Be that as it may. The petitioner desisted from appearing and contest the MCOP before the Claims Tribunal. The trial Court, while considering the plea of the petitioner, in order to prove his bonafide, has given an opportunity to the petitioner to contest the case on merits, passed a conditional order to deposit a sum of Rs.2,00,000/-. In the considered opinion of this Court, no prejudice would be caused to the petitioner for complying with the conditional order, ordering to deposit Rs.2,00,000/- by the Claims Tribunal and to defend his case on merits. I am satisfied that the Fair and Decreetal order, dated 23.01.2024, passed by the Presiding Officer, Additional Motor Accident Claims Tribunal, Puducherry, does not suffer from any illegality or infirmity.



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8. In the result, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

06.12.2024

Speaking Order/Non Speaking Order

Index : Yes/No

Internet : Yes

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To

The Presiding Officer,
The Motor Accident Claims Tribunal
Puducherry.



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M.NIRMAL KUMAR, J.

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PRE-DELIVERY ORDER IN
C.R.P.No.1865 of 2024

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