

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 533 OF 2021

Appeal filed under Section 173 of M.V.Act., against the order and decree, dated: 16.06.2014, passed in O.P. No.2605 of 2011, on the file of Motor Accident Claims Tribunal-cum-IX Additional Chief Judge, City Civil Court, Hyderabad.

Between:

1. Y. Lingaiah, S/o. Ramachandraiah, aged about 50 years, Occ: Nil.
2. Y. Rama Swamy, S/o. Lingaiah, aged about 30 years, Occ: Nil.
3. Parvathamma, D/o Lingaiah, aged about 28 years, Occ: Household,
All R/o H.No.1-2-240/C, Amberpet, Hyderabad

...CLAIMANTS/APPELLANTS

AND

1. Dhulla Venkatesh, S/o. Balaram, Aged: Major, Occ: Business, R/o. H.No.3-30,
Thummalapalli Village, Vangoor Mandal, Mahabubnagar Dist.
2. Shriram General Insurance Co. Ltd., rep. by its Branch Manager, D.No.3-6-
517, Flat No.402 & 403, IV Floor, Sai Datta Arcade, Street No.6,
Himayathnagar, Hyderabad.

...RESPONDENTS/RESPONDENTS

Counsel for the Appellant: SRI. T Viswarupa Chary

Counsel for the Respondent No.2: SRI Harinath Reddy Soma, Advocate

The Court made the following: Judgment

THE HON'BLE SRI JUSTICE SAMBASIVARAO NAIDU

MACMA.NO.533 OF 2021

JUDGMENT:

Mr.K.Revanth, learned counsel appeared on behalf of the appellant. When the appeal is taken up for hearing, though the request is made on behalf of the appellant seeking adjournment on the ground of personal inconvenience, the learned counsel representing 2nd respondent i.e., Mr.Harinath Reddy Soma informed the Court that his appeal has been filed on the basis of *ex parte* decree with regard to which the respondent No.2 had no knowledge. The 2nd respondent having come to know about the *ex parte* decree only after the claimant filed an execution petition, moved two separate interlocutory applications under Section 5 of Limitation Act and the other under Order 9 Rule 13 C.P.C. for condoning the delay in filing set aside petition. However, since the entire record is with the High Court, in the present appeal those interlocutory applications could not have been decided and sought for remanding matter to the trial Court for expedite

disposal of two interlocutory applications on the time bound schedule. There is no dispute about the above referred interlocutory applications filed by the Insurance Company seeking to set aside the *ex parte* decree along with delay condone petition.

2. The learned counsel for the respondent No.2 has also informed that he has already filed information with regard to interlocutory applications referred above.

3. Considering the above circumstances, it is felt that there is necessity to remand the matter to the trial Court with a direction to first decide the interlocutory applications on merits after hearing both parties.

4. In the result, the appeal is disposed of. The trial Court shall on receipt of this order and bundle of the entire record provide opportunity to both parties and decide interlocutory applications under Section 5 of Limitation Act and Order 9 Rule 13 C.P.C. within two months from the date of receipt of this order considering the request of the Insurance Company about the attachment of the order and

petition filed by the insurance company for stay of the execution.

Consequently, Miscellaneous applications if any, are closed. No costs.

Sd/- P.CH. NAGABHUSHAMBA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Motor Accident Claims Tribunal cum-IX Additional, chief Judge, City Civil Court at Hyderabad. (with Records if any)
2. One CC to SRI. T VISWARUPA CHARY, Advocate [OPUC]
3. One CC to SRI. HARINATH REDDY SOMA, Advocate [OPUC]
4. Two CD Copies

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HIGH COURT

SSRN, J

DATED: 21/06/2024

JUDGMENT
MACMA.No.533 of 2021



DISPOSING OF THE MACMA

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