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CMP No. 12815 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-07-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMP No. 12815 of 2025

AND

CMA NO. 929 OF 2023

Gunasekaran

Appellant(s)

Vs

1. David

2.The Branch Manager
ICICI Lombard General Insurance
Company Ltd., Chennai.

Respondent(s)

PRAYER

To set aside the order of dismissal as withdrawn in CMA.No. 929/2023 dated 22.10.2024 and To Restore the Civil Miscellaneous Appeal.

For Appellant(s): Mr.R.Jayaprakash

For Respondent(s): Mr.J.Michael Visuvasam For R2



ORDER

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This Civil Miscellaneous Petition has been filed seeking to set aside the order of dismissal as withdrawn in C.M.A.No. 929 of 2023 dated 22.10.2024 and to restore the above Civil Miscellaneous Appeal.

2. Mr.R.Jayaprakash, learned counsel for petitioner/appellant submitted that by mistakenly, it was withdrawn by junior counsel. Therefore, he wanted to restore the above C.M.A.

3. Mr.J.Michael Visuvasam, learned counsel for 2nd respondent raised strong objections stating that in the connected matter, the petitioner has settled the issue. Hence, he is not inclined to proceed with this matter. Therefore, this court also suggested for non-maintainability. In the said circumstances, he has withdrawn the complaint with due diligence. So, there is no mistake on the part of petitioner.

4. The contentions of the learned counsel for petitioner is that the connected appeal filed in C.M.A.No. 368 of 2023 was to be withdrawn and he was under the impression, he gave instructions to his junior counsel for the said



appeal, but mistakenly the above C.M.A.No.929 of 2023 was withdrawn.

Hence, he wanted to restore the appeal, since he is having valid defence. On

perusal of records, it would reveals that this Court also posted the matter under

the caption 'for withdrawal' and listed the case on that day also for withdrawal.

On considering the submissions of petitioner, since there is a mistake on the

part of counsel, for that, litigant would not be suffered. Therefore, this Court is

inclined to allow this petition and to restore the above Civil Miscellaneous

Appeal on condition that the petitioner/appellant shall pay a cost of Rs.2000/-

payable to the learned counsel for 2nd respondent within a period of three days

from the date of receipt of copy of this order.

5. Post the matter on 24.07.2025.

10-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, Special Sub-Court-II, Villupuram.

2. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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