



WEB COPY

CRP No. 3364 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-08-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRP No. 3364 of 2025

1. V.Muruganandham

2. S Kalaipriya

Petitioner(s)

Vs

1. Habibunnisha

2.Minor Divyashree

Minor Rep by her guardian Mother and
next friend Habibunnisha/1st Respondent,

3.Minor Sudarsan

Minor Rep by his guardian Mother and
next friend Habibunnisha/1st Respondent

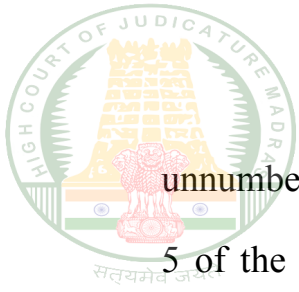
4.Krishnamoorthy

5.Kaleeswari

Respondent(s)

PRAYER

This Civil Revision Petition under Article 227 of the constitution of India
has been filed to set aside the return/docket order dated 30-06-2025 passed in



unnumbered I.A.No. Of 2025 filed under order IX Rule 13 CPC and Section 5 of the Limitation Act in MCOPO No.486 of 2022 on the file of the Motor Accident Claims Tribunal/Sub Court, Udumalpet direct the Tribunal to take the petitions on file and dispose of them on merits in accordance with law by allowing this CRP and thus render justice

For Petitioner(s): D.R.Arun Kumar

ORDER

Challenge has been made to the order of the Trial Court dated 30.06.2025, returning the application filed to set-aside the exparte order passed against the petitioners in MCOP No.286 of 2022, along with an application to condone the delay.

2. Though the petitioners were represented by counsel in MCOP No.286 of 2022, they remained exparte due to non filing of counter. After perusing the records and hearing the submissions of the learned counsel, the Tribunal fixed the liability on the petitioners herein and passed an award against them on 12.01.2024, and exonerated the Insurance Company,i.e., respondents 3 and 4., from the liability.



3. Therefore, the petitioners have filed an application to set aside the decree passed against them along with a petition to condone the delay.

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However, the Tribunal returned the application on 30.06.2025 stating that since Insurance Company has already filed an application under Section 170 of Motor Vehicles Act, the application to set aside the exparte decree is not maintainable. Hence, the present Civil Revision Petition has been filed challenging the said return.

4. No doubt, when the owner of the vehicle does not properly contest the claim, the Insurance Company is permitted under Section 170 of the Motor Vehicles Act to contest the claim on all or any of the grounds that are available to the person against whom the claim is made. However, such permission is granted only when there is collusion with the person against whom the claim is made, not in further case. Whereas in the present case, the Tribunal has passed an order directing the petitioners to pay the compensation. The negligence has been fixed on them merely on the basis of the FIR.



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5. Therefore, this Court is of the view that merely because an application under Section 170 of the Motor Vehicles Act has been filed, it does not mean that the exparte decree cannot be set aside at the instance of the petitioners. When a decree is passed against a person, that person is entitled to seek the setting aside of the exparte decree.

6. In such view of the matter, this Civil Revision Petition is allowed. The impugned order dated 30.06.2025, returning the petitioners' application, is set aside. The Tribunal is directed to number the application and dispose of it on its own merits and in accordance with law. No costs.

01-08-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

mrp

To

The Motor Accident Claims Tribunal/Sub Court,
Udumalpet.



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N.SATHISH KUMAR J.

mrp

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