

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL,
VIRUDHUNAGAR.
(IN THE COURT OF ADDITIONAL DISTRICT JUDGE, VIRUDHUNAGAR)**

PRESENT: **Thiru.T.V.Hemanandakumar,B.A.,LL.M.,**
Motor Accident Claims Authority
(Additional District Judge)

Monday, the 27th day of January, 2025

IA No.3/2023 in
MCOP.No.122/2022

HDFC ERGO General
Insurance Company Ltd., Thanjavur

... Petitioner/2nd respondent.
//Vs//

1. Santhanaraj	...	
2. Kanagalakshmi.	...	Respondents 1 & 2/Petitioners.
3. S.Velavan.	...	3 rd Respondent/1st respondent.

This petition came up on 09.01.2025 for final hearing before me, in the presence of Thiru.G.Rajasimmon, advocate for the petitioner/2nd respondent and Thiru.Sivakumar Rajappan, advocate for the 1st and 2nd respondents/petitioners and 3rd respondent remained ex parte and hearing the arguments on both sides and upon perusing all material records in this case and having stood over for consideration till this day, this court doth deliver the following

ORDER

1) This petition is filed by the petitioner/2nd respondent under Order 9 Rule 7 to set aside the exparte order passed against the petitioner/2nd respondent on 27.01.2023.

2) It is alleged in the affidavit that the petitioner is the 2nd respondent insurance company in this case. Summons in this case was received by the Insurance company and since so many files were handled by the officials, summons was mingled with some other case file and so they could not file

vakalath in time and this court set the petitioner exparte on 27.01.2023.

3) The 1st and 2nd respondents/petitioners filed counter contending that the averments in the affidavit are false. Deceased in this case was a college student and already this case is pending for long period. This petition cannot be allowed at the fag end of the case. Hence, this petition to set aside the exparte order cannot be allowed.

4) No oral evidence and documents were filed on both sides.

5) The point for consideration is whether this petition deserves to be allowed?

6) Heard and documents perused.

7) Point:

The petitioner herein is the insurance company in this case. Notice was issued to the petitioner in MCOP.122/2022 and on behalf of this petitioner advocate Mr.G.Rajasimmon filed undertaking memo to file vakalath on 08.12.2022. But on the subsequent day, vakalath was not filed. Hence, the petitioner/2nd respondent was set exparte. The main claim petition is filed by the parents of the deceased Vigneswaran claiming compensation for the death of deceased. The 3rd respondent/1st respondent, owner of the vehicle, already remained ex parte. So this court is of the view that the petitioner/2nd respondent can be given one more opportunity to contest the case and exparte order was passed against the petitioner/2nd respondent has to be set aside.

9) In the result, this petition is allowed. No order as to costs.

Dictated to the steno-typist, typed by her, corrected and pronounced by me in open court, on this the 27th day of January, 2025.

(Sd.) T.V.Hemanandakumar,
Additional District Judge,
Virudhunagar.

Witness and Exhibits on the side of the Petitioner:

Nil.

Witness and Exhibits on the side of the Respondents:

Nil.

(Sd.) T.V.Hemanandakumar,
Additional District Judge,
Virudhunagar.