

**THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

**Writ Petition No.5852 of 2004**

**ORDER:**

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This writ petition under Article 226 of the Constitution of India is filed by the petitioners assailing the orders dated 23.08.2003 of the learned Commissioner for Workmen's Compensation & the Assistant Commissioner of Labour, Rangareddy District, Circle-11.

2. No counters are filed by the contesting respondents.

3. I have heard the submissions of the learned counsel for the petitioners. I have perused the material record.

4. The facts, as set out in the writ petition, and which are necessary for consideration, in brief, are as follows:

The 1<sup>st</sup> petitioner is the wife, and the petitioners 2 and 3 are the children of deceased Palsa Balaiah @ Balaiah Goud, who died on 25.01.1996 due to his fall from a toddy tree while he was discharging his duties. His death had occasioned out of and during the course of his employment under the 2<sup>nd</sup> respondent herein. On account of the death of the deceased, the 1<sup>st</sup> petitioner, who is the wife, had suffered mental shock and, therefore, she was taken by her relatives for native treatment. She could not recover from the said shock for a long time. Later, the elders intervened and conducted mediation between the parties in regard to payment of some compensation. However, the efforts of the elders could not fructify. The petitioners' efforts to have some compensation from 'Geetha Panivarala Sankshema Corporation' also did not yield results. Therefore, the 1<sup>st</sup> petitioner had got issued a legal notice to the opposite parties claiming compensation. However, no compensation was paid. Therefore, she had filed the WC case under the provisions of the Workmen's Compensation Act presently known as Employees' Compensation Act, 1923 on 26.08.2000 before the Deputy Commissioner of Labour. The same was returned as it was not accompanied by the certified copies of the relevant documents. With great difficulty she had secured had the attested copies of the FIR and also the death certificate of her husband from the Station House Officer, Maheswaram Police Station and the Mandal Revenue Officer, Maheswaram Mandal and got her case papers re-submitted before the Commissioner on 13.03.2001. In the stated circumstances, delay had occasioned in filing the compensation case. Hence, she had filed an application for condonation of the said delay. That application was resisted by the contesting respondents. On merits, by the impugned order, the learned Commissioner had dismissed the said application not having been satisfied with the explanation offered and on the ground that no documentary evidence is produced in support of the explanation for the long delay. Feeling aggrieved, the petitioners are before this Court by way of this writ petition.

5. At the time of hearing, the learned counsel for the petitioner while reiterating the contentions urged in the application for condonation of delay would submit that the deceased was the sole bread earner of the family and that the 1<sup>st</sup> petitioner in the circumstances stated by her in her affidavit could not submit an application for compensation within the time allowed under law and that the other petitioners 2 and 3 are her minor children and that having regard to the circumstances in which she was placed and considering the avowed objective of the legislation and the further fact that the 1<sup>st</sup> petitioner is an illiterate woman and that it is not possible to produce any documentary evidence except pleading for condonation of delay on the basis of the facts urged in the affidavit, the delay ought to have been condoned by the learned Commissioner.

6. As rightly contended, on the grounds of mere long delay and that documents are not filed in support of the explanation for delay, the learned Commissioner ought not to have dismissed the application for condonation of delay; and instead the learned Commissioner ought to have examined whether the explanation offered for the delay is convincing or not and whether it is feasible for the 1<sup>st</sup> petitioner to file any documents in the circumstances she and her minor children were positioned at the relevant time. Though the delay is of 944 days, in the well considered view of this Court, lack of bona fides are not imputable to a party like the 1<sup>st</sup> petitioner herein more particularly when a close look at the explanation offered for condonation of delay reveals that, although the delay is substantial, the same was sufficiently explained though not in a fool-proof manner but in a quite convincing manner. The law is well settled that the length of delay is no matter and the acceptability of the explanation is the only criterion. It is trite to observe that when substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred as such a course serves the ends of justice.

8. **In the result**, the Writ Petition is allowed. As a sequel, the impugned order dated 23.08.2003 of the learned Commissioner for Workmen's Compensation & Assistant Commissioner of Labour, Rangareddy District, Circle-11,

Hyderabad passed in IA in WC.No.22 of 2001 is set aside and the said application is allowed. The learned Commissioner is directed to register the WC and dispose of the same as expeditiously as possible and in accordance with the procedure established by law. No costs.

Miscellaneous petitions, pending if any, in the writ petition shall stand closed.

16.12.2015  
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**M. SEETHARAMA MURTI, J**