

C.M.P.No.12976 of 2016
in
C.M.A.No.Sr189 of 2016

M.JAICHANDREN, J.
AND
S.BASKARAN, J.

(Order of the Court was made by **M.JAICHANDREN, J.**)

Heard the learned Senior Counsel appearing on behalf of the petitioner. There is no appearance on behalf of the respondents 1 to 4, in spite of the court notice having been served and the names of the respondents 1 to 4 having been printed in the cause list. Even though the name of the learned counsel appearing on behalf of the fifth respondent has been printed in the cause list, there is no appearance on behalf of the fifth respondent as well.

2 This miscellaneous petition has been filed, praying that this Court may be pleased to condone the delay of 2158 days in filing the Civil Miscellaneous Appeal.

3 It has been stated that the petitioner is the owner of the vehicle, namely, TATA Sumo Car, bearing Registration No.TN 29 M 8957. The said vehicle had been insured with the fifth respondent. On 19.9.2008, the said vehicle had met with an accident, hitting the backside of a lorry, due to which one Madhavan, who was sitting in the front seat of the car, had died. The legal heirs of the deceased Madhavan had filed M.C.O.P.No.1095 of 2008, under Section 166 of the Motor Vehicles Act, 1988, on the file of the Motor Accident Claims

Tribunal-cum-Principal District Court, Dharmapuri, claiming a sum of Rs.30,00,000/-, as compensation. It had been further stated that the vehicle, belonging to the petitioner, had been fully covered under insurance, by the fifth respondent Insurance company, for the period from 23.10.2007 to 22.10.2008. Further, the fifth respondent Insurance company had undertaken to defend the case on behalf of the petitioner, by filing an application, under Section 170 of the Motor Vehicles Act, 1988.

4 It had been further stated the the application filed by the fifth respondent insurance company, under Section 170 of the Motor Vehicles Act, 1988, numbered as I.A.No.1311 of 2009, in M.C.O.P.No.1095 of 2008, had been allowed, by an order, dated 12.11.2009. However, the fifth respondent insurance company had failed to defend the petitioner, during the trial. It had been further stated that the Motor Accident Claims Tribunal-cum-Principal District Court, Dharmapuri, had passed an Award, dated 22.4.2010, awarding a sum of Rs.16,73,850/-, along with the interest thereon. As the fifth respondent insurance company had not defended the petitioner, the petitioner had been set ex parte.

5 It has been further stated that the Motor Accident Claims Tribunal-cum-Principal District Court, Dharmapuri, had passed the Award, dated 22.4.2010, holding that the petitioner herein was liable to pay the compensation to the legal heirs of the deceased Madhavan. It had also been held that the fifth respondent insurance company ought to pay the award amount to the legal heirs of the deceased and thereafter, recover the same from the petitioner herein. It

had been stated that the petitioner had come to know about the award, dated 22.4.2010, only when the revenue recovery proceedings had been initiated against her. Therefore, there has been a considerable delay in the filing of the civil miscellaneous appeal, against the Award, dated 22.4.2010, made in M.C.O.P.No.1095 of 2008.

5 In view of the submissions made by Mr.K.Doraisami, the learned Senior Counsel, appearing on behalf of the petitioner and in view of the averments made in the affidavit filed in support of the miscellaneous petition, this Court is of the considered view that sufficient cause has been shown by the petitioner, for the delay in filing the Civil Miscellaneous Appeal. Hence, this civil miscellaneous petition stands allowed, on condition that the petitioner pays a sum of Rs.1,000/- (Rupees one thousand only), to the Tamil Nadu Mediation and Conciliation Centre, High Court of Madras, Chennai, within a period of 10 days from the date of receipt of the copy of this order, failing which the civil miscellaneous petition shall stand dismissed, automatically, without further reference to this Court.

(M.J.,J.) (S.B., J.)

18.10.2016

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M.JAICHANDREN, J.
AND
S.BASKARAN, J.

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18.10.2016