



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Thursday, the Thirtieth day of June Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice NOOTY. RAMAMOHANA RAO
and
The Hon`ble Mr.Justice S.S.SUNDAR

CMP(MD) No.5715 of 2016
IN
CMA(MD) No.SR16804 of 2016

J.BRAMMANANDAN ... PETITIONER/APPELLANT

Vs

1 SATHYA
2 MINOR HARIS
3 MUTHUSAMY
4 VIJAYA
(MINOR 2ND RESPONDENT IS REP.BY MOTHER
AND GUARDIAN 1ST RESPONDENT) ... RESPONDENTS/PETITIONERS

5 THE STATE OF TAMIL NADU
REP BY CHIEF EDUCATIONAL OFFICER,
DINDIGUL TOWN, PALANI ROAD,
DINDIGUL DISTRICT. ... RESPONDENTS/RESPONDENTS

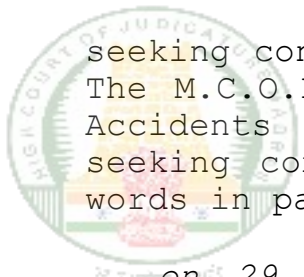
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to condone the delay of 1495 days in filing the above CMA.(MD). SR.No.16804/2016 against the fair and decreetal order dated 29.11.2011 made in MCOP.No.284/2010 on the file of Motor Accident Claims Tribunal (Fast Track Court / Additional District & Sessions Judge), Dindigul and thus render justice.

PRAYER IN CMA(MD)NO.SR16804/2016 :

Memorandum of Grounds of Civil Miscellaneous Appeal against the fair and decreetal order dated 29.11.2011 made in MCOP.NO.284 of 2010 on the file of Motor Accident Claims Tribunal, (Fast Track Court/Additional District and Sessions Judge), Dindigul.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and the petitioner not appearing in person or by an Advocate the court made the following order:-

(Order of the Court was made by **NOOTY.RAMAMOHANA RAO,J**)



seeking condonation of delay of 1495 days in preferring the appeal. The M.C.O.P.No.284 of 2010 was decreed on 29.11.2011 by the Motor Accidents Claims Tribunal, Dindigul. The explanation offered for seeking condonation of delay has been spelt out in the following words in paragraph 3 of the accompanying affidavit:-

"3. I state that as soon as the award as pronounced on 29.11.2011, my counsel paid necessary charges to his clerk to file the copy application on the same day and arrange to file an appeal. I was under the impression that my counsel on record before the Tribunal would have obtained the certified copy of the fair and decreetal order and had preferred an appeal. But only during February 2016 when I was served with an order by the District Elementary Educational Officer, Dindigul directing me to pay the award of compensation. In the above circumstances, when I contacted my counsel before the Tribunal, I was shocked to know that no copy application was filed by the clerk and hence no appeal was filed by the counsel before the court below. Hence immediately I arranged to file the copy application on 17.02.2016 and obtained the certified copy of the fair and decreetal order on 23.02.2016".

2.Except making an allegation that he has instructed his counsel to apply for a copy of the judgment and that he was under an impression that an appeal would have been preferred by the said counsel, even without making available necessary funds for filing an appeal, no meaningful explanation seeking condonation of delay of such a huge extent of nearly 1500 days has not been even attempted to be explained. Even otherwise, the petitioner would allege that he has arranged for the copy application to be filed on 17.02.2016 and he obtained the certified copy of the decreetal order on 23.02.2016 even thereafter, appeal has not been promptly preferred but it was preferred only on 07.04.2016, that is more than six weeks later to the date of obtaining the decree copy, bringing out clearly the lazy and lethargic attitude. For the sheer lack of a reasonable explanation which is otherwise acceptable for condonation of delay, we cannot entertain such applications. Hence, the application to condone the delay of 1495 of days in preferring the accompanying civil miscellaneous appeal is dismissed. Consequently, the accompanying civil miscellaneous appeal is also dismissed. In case, any Court fee is paid thereon, liberty is preserved to the petitioner to seek refund of the same, in accordance with law.

sd/-
30/06/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras HighCourt,
Madurai - 625 023.



SMS
TO

THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,
(FAST TRACK COURT /
ADDITIONAL DISTRICT & SESSIONS JUDGE)
DINDIGUL

WEB COPY

+1CC to Mr.S.Srinivasa Raghavan, Advocate Sr.No.34604

GJM/GSV/PM/SAR-I-12.7.16-3P-3C

ORDER

IN

CMP (MD) No.5715 of 2016

IN

CMA (MD) No.SR16804 of 2016

Date :30/06/2016