



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

Tuesday, the Ninth day of August Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

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CMP(MD) No.7534 of 2016
IN
CMA(MD) No.SR55137 of 2011

THE NATIONAL INSURANCE COMPANY LIMITED,
58, RAJAJI STREET,
KANGEYAM,
ERODE DISTRICT,
REP BY ITS BRANCH MANAGER.

... PETITIONER/APELLANT

Vs

1 K.PALANIAPPAN
2 P.RUKMANI
3 D.CHANDRASEKARAN

... 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 1726 days in re-presenting the above CMA(MD) SR.No.55137/2011 and thus render justice.

Prayer in CMA(MD)SR.No.55137 of 2011:-

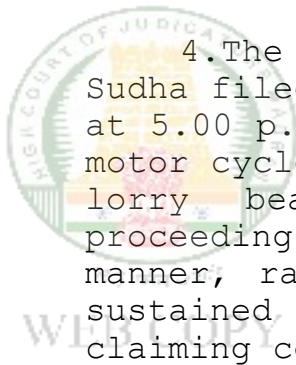
Memorandum of Grounds of Civil Miscellaneous Appeal against the judgment and award made in M.C.O.P.No.494 of 2008 dated 19.04.2011 on the file of Motor Accidents Claims Tribunal and Additional District Judge, Fast Track Court, Dindigul.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S. D.SIVARAMAN, Advocate for the petitioner and the court made the following order:-

This application is filed to condone the delay of 1726 days in re-presenting the appeal papers.

2.Heard Mr.D.Sivaraman, learned counsel appearing for petitioner and perused the materials available on record.

3.The appellant Insurance Company has preferred this appeal, aggrieved over the award passed by the Motor Accidents Claims Tribunal/Additional District Court (Fast Track Court), Dindigul, in MCOP No.494 of 2008, dated 19.04.2011.



4.The respondents 1 and 2, who are the parents of the deceased Sudha filed the said MCOP No.494 of 2008 alleging that on 07.05.2008 at 5.00 p.m., the deceased was travelling as a pillion rider in the motor cycle bearing registration No.TN33-AJ-2014 and at that time, a lorry bearing registration No.TN-30-X-9369, which was also proceeding on the same direction, came in a rash and negligent manner, rammed the motor cycle. Due to the accident, the deceased sustained fatal injuries and died on the spot. A petition was filed claiming compensation of Rs.10,00,000/-.

5.The appellant Insurance Company opposed the claim by filing a counter, disputing the age and relationship of the parties, the manner of the accident and their liability to pay the compensation.

6.The claimants in support of their case, examined the rider of the motor cycle as PW2. In his evidence, PW2 has spoken about the manner of the accident as set out in the claim petition. The claimants have also produced Ex.P1 First Information Report, which shows that a criminal case was registered against the driver of the lorry. Based on the evidence, in my considered view, the Tribunal has rightly come to the conclusion that the driver of the lorry caused the accident.

7.PW1 and PW2 deposed that the deceased Sudha was aged about 24 year old at the time of the accident and she was a spinster and she was working as a teacher in Geethanjali School at Thindal in Erode District. PW3 is an employee of the school has corroborated the evidence of PW1 and PW2 and further deposed that the deceased was drawing a salary of Rs.5,000/- per month. Ex.P3 is the salary certificate.

8.The Tribunal, however, assessed the income of the deceased at Rs.3,000/- and after deducting, 1/3rd towards her person expenses held that she was drawing Rs.2,000/- per month to the family. The Tribunal has adopted the multiplier of '14', taking into account the age of the mother, who is the 2nd claimant and awarded Rs.3,36,000/- towards loss of dependency, Rs.20,000/- towards loss of love and affection, Rs.5,000/- towards funeral expenses. In all, the Tribunal has awarded Rs.3,61,000/- together with interest @ 7.5% p.a. In my considered view, the award of the Tribunal is reasonable, which warrant no interference by this court.

9.In the affidavit filed in support of the application, the Deputy Manager of the National Insurance Company Limited, Madurai has averred that the appeal was originally filed on 28.10.2011 and the same was returned by the Registry for compliance of certain defects on 31.10.2011 and the appeal papers could not be represented in time, due to the delay in getting sanction from the Finance Committee and also some administrative reasons. Except the bald and vague averments, there is no convincing reason given in the affidavit for condonation of the enormous delay of 1726 days.

10.This court is of the considered opinion that the petitioner has not shown sufficient cause for condonation of the delay. In



fine, the application is dismissed. Consequently, the appeal is dismissed in the SR stage itself. No costs.

sd/-
09/08/2016

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

TO

THE MOTOR ACCIDENTS CLAIMS TRIBUNAL AND ADDITIONAL DISTRICT JUDGE,
(FAST TRACK COURT), DINDIGUL.

Er
CSL/GSV-PM/SAR-III/15.09.2016: 3P/2C

ORDER
IN
CMP(MD) No.7534 of 2016
IN
CMA(MD) No.SR55137 of 2011
Date :09/08/2016