



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

Wednesday, the Seventeenth day of August Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

CMP(MD) No.7771 of 2016
IN
CMA(MD) No.SR6976 of 2007

TAMILNADU STATE TRANSPORT CORPORATION,
KARAIKUDI,
REP. THROUGH ITS MANAGING DIRECTOR.

... PETITIONER/APPELLANT

Vs

MOHAN

... RESPONDENT/RESPONDENT

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 1095 days in re-presenting the above Civil Miscellaneous Appeal S.R.No.6976 of 2007.

Prayer in CMA(MD) No.SR6976 of 2007:

To set aside the Judgment and decree passed by the Motor Accident Claims Tribunal, Sub Court, Paramakudi in MCOP.No.65 of 2002 dated 29th November 2005.

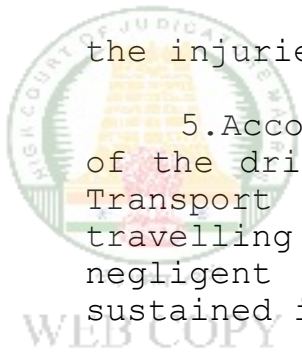
ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.D.SIVARAMAN, for M/S.RAJNISH PATHIYIL, Advocate for the petitioner, the court made the following order:-

This application is filed to condone the delay of 1095 days in re-presenting the appeal papers.

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

3.It has been averred in the affidavit filed in support of the application that the appeal was originally filed on 16.02.2007 and it was returned for compliance of certain defects on 21.02.2007. However, due to delay in getting sanction from the Finance Committee and also due to the financial crisis, the appeal papers could not be re-presented in time and hence, the delay occurred.

4.It is seen from the records that the respondent as claimant, approached the Tribunal seeking compensation of Rs.1,00,000/- for



the injuries sustained by him in the accident on 25.06.1999.

5. According to the claimant, on 25.06.1999 as per the direction of the driver and the conductor of the bus belonging the appellant Transport corporation, the passengers including the claimant were travelling on the top of the bus. While so, due to rash and negligent driving of the bus driver, the claimant fell down and sustained injuries.

6. In support of the case, the claimant has given evidence as PW1 and also produced Ex.P1 First Information Report, Ex.P4 bus ticket and Exs.P2 and P6 case sheet and O.P. sheet respectively. The driver of the bus has given evidence as RW1.

7. The Tribunal, on proper appreciation of the oral and documentary evidence has held that both the claimant and the driver of the bus was responsible for the accident and fixed negligence in the ratio at 75% on the driver of the bus and 25% on the claimant and eventually awarded compensation of Rs.42,000/-. The award of the Tribunal is fair and reasonable. Further the averments in the affidavit are vague and bald in nature. I am of the opinion that the enormous delay was no properly explained by the appellant.

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

sd/-
17/08/2016

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

TO

THE MOTOR ACCIDENT CLAIMS TRIBUNAL,
SUBORDINATE JUDGE, PARAMAKUDI.

ORDER
IN
CMP(MD) No.7771 of 2016
IN
CMA(MD) No.SR6976 of 2007
Date :17/08/2016

ER
TE/SKS-RR/SAR-I : 15/09/2016 : 2P/2C