

In the High Court of Judicature at Madras

Dated : 08.09.2017

Coram

**The Hon'ble Mr. Justice R.SUBBIAH
and
The Hon'ble Mr. Justice A.D.JAGADISH CHANDIRA**

**CMP.No.14903 of 2017
in
C.M.A.SR.No.82471 of 2013**

The Managing Director
Metropolitan Transport Corporation Ltd.
Pallavan Salai.

..Petitioner/
Appellant

..VS..

C.Rajendran

..Respondent/
Respondent

Civil Miscellaneous Petition is filed under Order IV Rule 9(4) of A.S.Rules to condone the delay of 1404 days in representing the appeal in CMA.SR.No.82471 of 2013.

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.04.2013 passed by the learned Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai in MCOP.No.1230 of 2011.

For Appellant : Mr.K.S.Suresh

For Respondent : Mr.T.Swamikkannu

ORDER

(Judgment of the Court was delivered by R. SUBBIAH,J.)

Heard Mr.K.S.Suresh, learned counsel for the petitioner/ appellant – Transport Corporation and Mr.T.Swamikkannu, learned counsel for the respondent/claimant and perused the materials.

2. The petitioner / appellant – Transport Corporation has preferred an appeal in CMA.SR.No.82471 of 2013, against the judgment and decree dated 25.04.2013 passed by the learned Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai in MCOP.No.1230 of 2011, whereby, the Tribunal fixed the liability on the Transport Corporation and awarded a sum of Rs.6,36,000/- with interest at 7.5%p.a., as compensation to the respondent/claimant for the grievous injuries sustained by him in an accident, that had occurred on 25.02.2011.

3. Questioning the liability as well as the quantum of compensation awarded by the Tribunal, the petitioner / appellant - Transport Corporation has preferred the aforesaid appeal. In such process, a delay of 1404 days has occasioned in representing the appeal.

4. It is averred in the petition filed for condoning the delay in representing the appeal that the petitioner /appellant has filed the appeal papers on 17.09.2013, which were returned for complying with certain defects on 24.09.2013. Thereafter, the appeal papers got mixed with other case bundles in the office of the learned counsel and the same were traced out only in the first week of August 2017. Subsequently, the defects were complied with and the appeal papers were represented before the Registry. Therefore, the delay in representing the appeal is neither wilful nor wanton, but only due to the reasons stated above.

5. We are of the view that such a huge delay of 1404 days in representing the appeal have not been explained by the petitioner/appellant Transport Corporation by adducing plausible reasons. The reasons assigned by them are not convincing. Hence, there is no justification in condoning the delay.

6. Further, it is well settled that the delay cannot be condoned as a matter of right or on the mere asking of the party. It is expected of the Court to exercise such discretion as per the settled guidelines and

is inevitable for a party to show a sufficient cause, while requisitioning the Court to exercise such discretion in favour of the petitioner/appellant. It is held by the Hon'ble Supreme Court in the case of **Shanti Devi v. State of Haryana and Others** reported in **1999 (5) SCC 703**, that delay should be explained properly and sufficient cause should be shown before the Court for condoning the delay. In the light of the same, the condone delay petition deserves to be dismissed.

7. Accordingly, the Civil Miscellaneous Petition is dismissed. Consequently, the Civil Miscellaneous Appeal is rejected at SR stage itself. No costs.

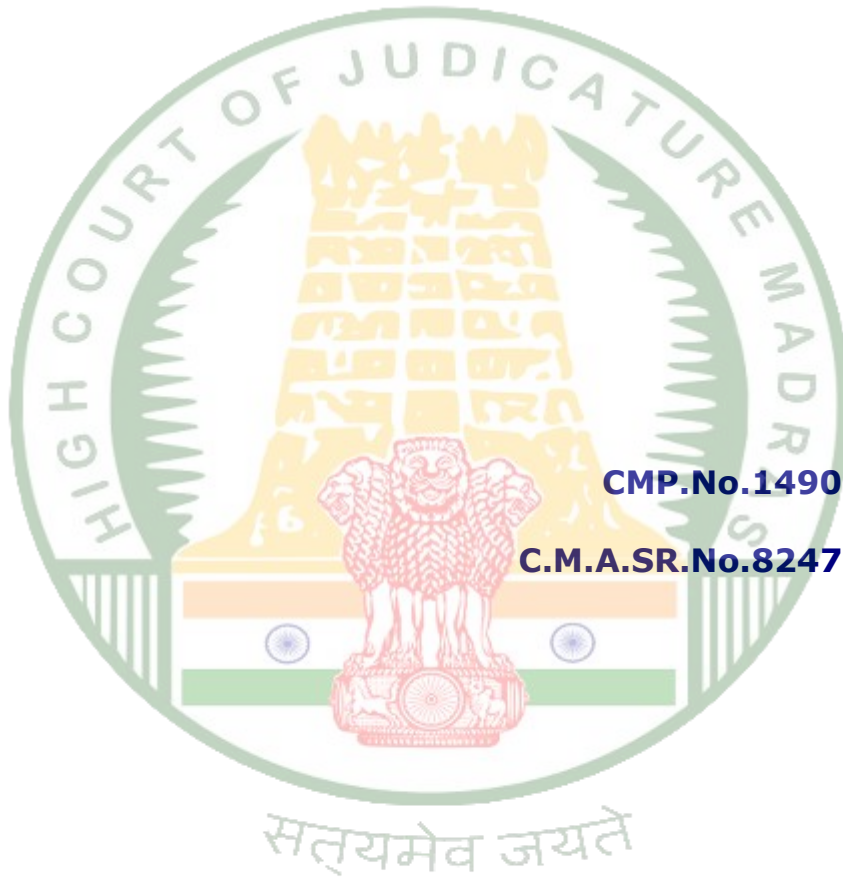
(R.P.S., J.) (A.D.J.C., J.)
08-09-2017

rk
Index:Yes/No

To
The Motor Accidents Claims Tribunal
(II Court of Small Causes), Chennai.

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**R.SUBBIAH, J.
and
A.D.JAGADISH CHANDIRA, J.**



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