



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05.07.2017

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANUC.M.P. (MD) .No.6150 of 2017andCMA(MD) No.SR.1316 of 2012

The Divisional Manager,
National Insurance Company,
Trichy.

... Petitioner/Appellant

Vs.

1.Minor.Suganya,
D/o.Chinniah
(Minor is represented through
his Father and natural guradian
chinniah)

2.Nainan

...Respondents/Respondents

Prayer:- This petition is filed under Order.V Rule 9(4) of A.S.Rules praying to condone the delay of 1972 days in representing the above C.M.A.SR.No.1316 of 2012.

CMA(MD) SR.No.1316 of 2012 :

Civil Miscellaneous Appeal sought to be filed under section 173 of Motor Vehicle Act,1988, against the award made in M.C.O.P.No. 119 of 2008 dated 22/09/2011 on the file of the Principal Sub Judge(Motor Accidents Claims Tribunal)dindigul.

For Appellant : Mr.D.Sivaraman

For Respondent : Mr.A.Saravanan

for caveator

ORDER

This Civil Miscellaneous Petition has been filed to condone the delay of 1972 days in re-presenting the CMA(MD)No.SR.1316 of 2012.

2. It is averred in the petition that the appeal was originally filed on 06.01.2012 and the same was returned by the Registry pointing out some defects on 11.02.2012. It is further averred that the defects have been complied with and due to the delay caused in getting sanction from the Finance Committee for making the pre-conditioned deposit and due to some administrative



reasons, there was a delay in making the initial deposit and obtaining necessary documents such as deposit receipt; the papers could not be re-presented in time. Hence, there was a delay of 1972 days in re-presenting the above civil miscellaneous appeal.

3. The learned counsel appearing for the appellant would submit that the delay is neither wilful nor wanton but only due to the administrative reasons. He would further submit that if the delay is not condoned, the appellant would be put to much hardship and prays for appropriate orders.

4. The question before this Court is whether such huge delay can be condoned?

4.1. Needless to state that this Court can condone the delay if there are *bona fide* reasons. Admittedly, in the case on hand, neither there is *bona fide* reason nor any application for extension of time is prayed. The petition filed by the insurance company is totally bereft of any particulars. It may not be out of place to state that the litigant who already lost their beloved one's cannot be allowed to lose their patience also. The Insurance Company is run from and out of the funds received from the common man to ease their distress in the form of relief/compensation at the time of accident. Therefore, it is not only the duty of the insurance company to settle the money for the victims at the earliest but they have owe to the Society as well. The matter arising out of motor accident claims cannot be procrastinated by the insurance company in one way or other by simply stating that there is an administrative delay and hence, the delay is caused. Each and every day, the delay has to be properly explained by the insurance company in a geographical manner and accountability must be fixed to curb this menace.

5. In the case on hand, the delay is so huge for which there has been no satisfactory or considerable reasons to condone the delay of 1972 days in representing the above appeal. Delay in any form, may be, representing delay, delay in paying batta, deficit court fee etc., without proper reason should be nipped in the bud or else, the litigation will become an never ending process and the litigant will be put into darkness. The case will not be seen the light of the day.

6. While doing so, the one more question arises to this Court whether when a litigant files with huge delay in the case of motor accident claims can be condoned or not?



favoured in favour of the litigant only. A poor litigant cannot be compared with the officers and infrastructure available with the Insurance Company where well-versed legal luminaires will be available to lead the case, whereas, the poor litigant losing their bread winner of the family or their beloved ones has to come back their normalcy and file a petition, which normally takes its own time. Some times, it may be due to poverty, illiteracy, mental agony, approaching an advocate, awareness of law, time and so on and so forth. Hence, the litigant has to overcome all these hurdles in the process of filing motor accident claims petition and proceed the case. But, the problem faced by the litigant will not be faced by the insurance company. The only solace available to the litigant eventually is the award of compensation granted by this Court. Therefore, in all fairness, the yardstick applied to the insurance company cannot be strictly applied to the poor litigant. In the case of motor accident claims, the relief should be humanity in nature.

8. By condoning this type of petition this Court does nothing but add fuel to the fire in the distressed family and making them more suffer to the deceased family. Added further, in the efflux of time, the family would have back to normalcy to some extent and condoning the delay filed by the insurance company with the huge delay will lead to unearth their cherished memories of their beloved ones, once again and put them back into mental agony in their remaining life to which this Court can never be a party to it. This Court is really at a loss to understand the lethargic attitude of the insurance company in litigating the matter in their own fashion. This Court hopes and trust that atleast in future the Insurance Company will take earnest steps to proceed the case in a full-fledged manner and avoid to file petition for the name-sake, which not only eats away the time of insurance company, but also the precious time of this Court also, when this Court already piled up with a number of cases in day to-day important stages.

9. Before winding up this order, this Court wants to make it clear that the insurance company should make an earnest steps to comply with the defect pointed out by the Registry in letter and spirit, that too, on time. The reason behind is, in the case on hand, the defects pointed out by the Registry is on 11.1.2012, whereas, the Insurance Company has taken time to comply with the defects for more than five and half years. The attitude of the insurance company that once the petition is filed before this Court by filing a petition and therefore, it is a continuous proceedings, and later it cannot be condoned, should be avoided by the Insurance Company and this Court will not encourage or allow this type of petition in future.



10. In the light of the discussion, this Court has no option but to dismiss this petition in *limine*. Accordingly, this petition is dismissed. Consequently, CMA(MD).No.SR.1316 of 2012 is also dismissed at the stage of S.R.itself.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

1. The Principal Subordinate Judge,
Motor Accidents Claims Tribunal,
Dindigul.
2. The Divisional Manager,
National Insurance Company,
Trichy.
3. Minor.Suganya,
D/o.Chinniah
Errakkapatti,
Samuthirapatti post,
Natham Taluk,Dindigul District.
4. Nainan,
S/O Pitchai,
159-A Ayyapatti Post,
Melur Taluk,
Madurai District.

Ssm

MK/SV MMS/SAR-2/10.11.2017/4P/5C

CMP(MD)No.6150 of 2017

in

CMA(MD)No.SR 1316 of 2012