

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.P.No.5566 of 1998
and
C.M.A.SR.No.5117 of 1998

National Insurance Company Limited
Vellore, North Arcot District.

.. Petitioner

Vs.

1.Selvi. Vimala
2.Bhanumathi
3.Munisami

.. Respondents

PRAYER: C.M.P.No.5566 of 1998 is filed under Section 173(1) of the Motor Vehicles Act, 1988, to condone the delay of 205 days in filing C.M.A.SR.No.5117 of 1998.

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C.M.A.SR.No.5117 of 1998 is filed under Section 173(1) of the Motor Vehicles Act, 1988, against the judgment and decree dated 07.10.1996 made in M.C.O.P.No.209 of 1988 on the file of the Motor

Accidents Claims Tribunal, Sub Court, Tirupattur, North Arcot District.

For Petitioner : Ms.V.S.Sowmya for
M/S.N.Rosi Naidu

R1 and R2 : Batta with petition due

R3 : died

ORDER

C.M.P.No.5566 of 1998 is filed to condone the delay of 205 days in filing C.M.A.SR.No.5117 of 1998.

C.M.A.SR.No.5117 of 1998 is filed against the judgment and decree dated 07.10.1996 made in M.C.O.P.No.209 of 1988 on the file of the Motor Accidents Claims Tribunal, Sub Court, Tirupattur, North Arcot District.

2.The learned counsel appearing for the petitioner contended that the award is dated 07.10.1996 and copies of the award were made ready on 02.04.1997. On 02.05.1997, there was a fire accident in the Regional Office of the petitioner Insurance Company

and all the files were removed from the accident premises to two places. In view of the same, the bundle got mixed up and appeal could not be filed in time. Hence, there is a delay of 205 days in filing the appeal. Therefore, she prayed for condonation of delay in filing the Civil Miscellaneous Appeal.

3. Heard the learned appearing counsel for the petitioner and perused the materials available on record.

4. From the averments made in the affidavit filed in support of this petition, it is seen that the C.M.P. is filed in the year 1998 to condone the delay of 205 days in filing the appeal, which is filed challenging the award dated 07.10.1996 made in M.C.O.P.No.209 of 1988. As per the contention of the learned counsel for the petitioner, there was a fire accident in the Regional Office of the petitioner Insurance Company and due to shifting of the files in the petitioner's office, the bundle got mixed up. It is well settled that the application for condoning the delay must be considered liberally and length of delay is not a criteria. The Court must see whether the parties have given acceptable and valid reason and the intention of the parties is bonafide and not malafide. The parties should not be

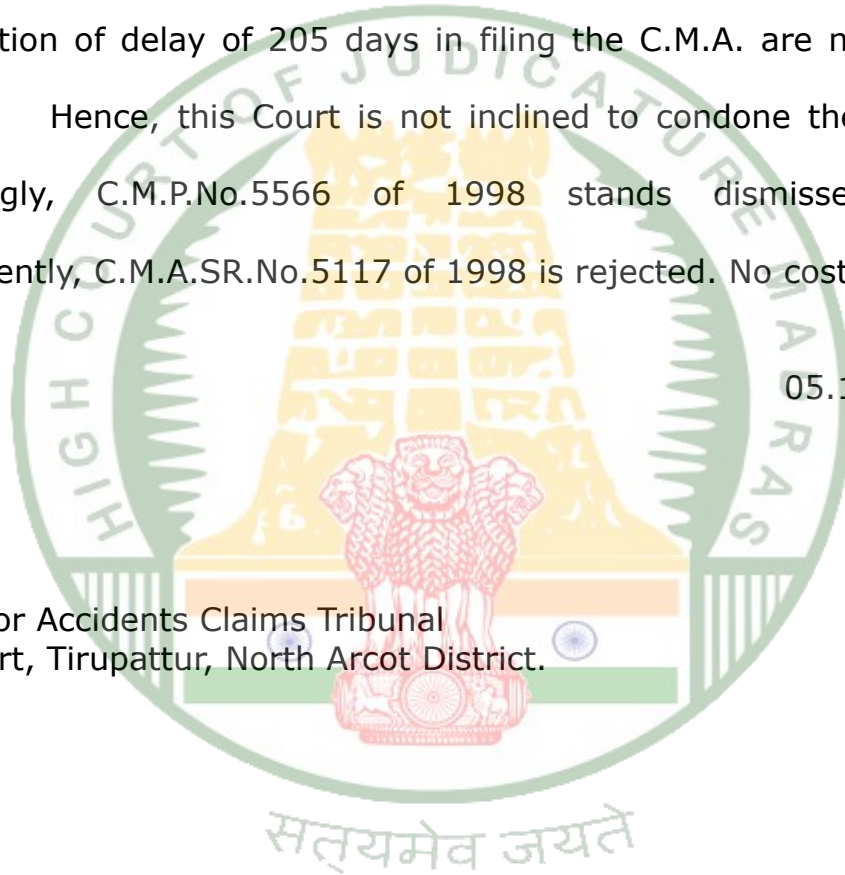
shut down at the threshold itself and they must be given an opportunity to put forth their case on merits. At the same time, the intention of the party must be bonafide and should not be malafide. In the present case, the reasons given by the petitioners for condonation of delay of 205 days in filing the C.M.A. are not valid reasons. Hence, this Court is not inclined to condone the delay. Accordingly, C.M.P.No.5566 of 1998 stands dismissed and consequently, C.M.A.SR.No.5117 of 1998 is rejected. No costs.

05.12.2018

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To

The Motor Accidents Claims Tribunal
Sub Court, Tirupattur, North Arcot District.



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V.M.VELUMANI,J.

Kj



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and
C.M.A.SR.No.5117 of 1998

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