

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.P.No.11149 of 2018
and
C.M.A.SR.No.45561 of 2017

1.R.Lakshmidevi

2.R.Hariharan (minor)

(2nd petitioner declared as major and her mother/natural guardian R.Lakshmidevi/
1st appellant discharged from the guardianship vide Court order dated 05.06.2018 made in C.M.P.No.9245 of 2018 in C.M.A.SR.No.45561 of 2017)

3.Minor R.Swathi
(Represented by her mother
and natural guardian R.Lakshmidevi)

.. Petitioners

Vs.

1.Gunasekaran

2.The Divisional Manager
Oriental Insurance Company
Pondicherry.

3.Swamykannu

4.Amaravathi

.. Respondents

PRAYER: C.M.P.No.11149 of 2018 is filed under Section 173(1) of the Motor Vehicles Act, 1988, to condone the delay of 4734 days in filing the above appeal.

C.M.A.SR.No.45561 of 2017 is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 09.03.2004 made in M.C.O.P.No.28 of 2003 on the file of the Motor Accidents Claims Tribunal, Sub Court, Chidambaram.

For Petitioners : Mr.B.N.Chandrasekar

ORDER

C.M.P.No.11149 of 2018 is filed to condone the delay of 4734 days in filing the above appeal.

C.M.A.SR.No.45561 of 2017 is filed against the judgment and decree dated 09.03.2004 made in M.C.O.P.No.28 of 2003 on the file of the Motor Accidents Claims Tribunal, Sub Court, Chidambaram.

2.In the affidavit filed in support of this petition, the first petitioner on behalf of her and other petitioners stated that the

compensation awarded by the Tribunal is very low and the award was passed by the Tribunal mechanically without taking into consideration the poor condition of the petitioners. The first petitioner further stated that she fell ill and she suffered both mentally and physically due to the death of her husband. In para-8 and 9 of the affidavit, the first petitioner has stated that she is working and getting very low salary and in view of the same, she is not able to file the appeal in time. The delay is neither wilful nor wanton. Therefore, she prayed for condonation of delay in filing the Civil Miscellaneous Appeal.

3. Heard the learned counsel appearing for the petitioners 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 award was passed on 09.03.2004 and C.M.A. was filed on 21.06.2017. 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. In the present case, the petitioners have not given any valid reasons for condoning the delay except stating that the Tribunal passed the award mechanically without considering the poor condition of the petitioners. The reasons given by the petitioners for condonation of delay of 4734 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.11149 of 2018 stands dismissed and consequently, C.M.A.SR.No.45561 of 2017 is rejected. No costs.

10.12.2018

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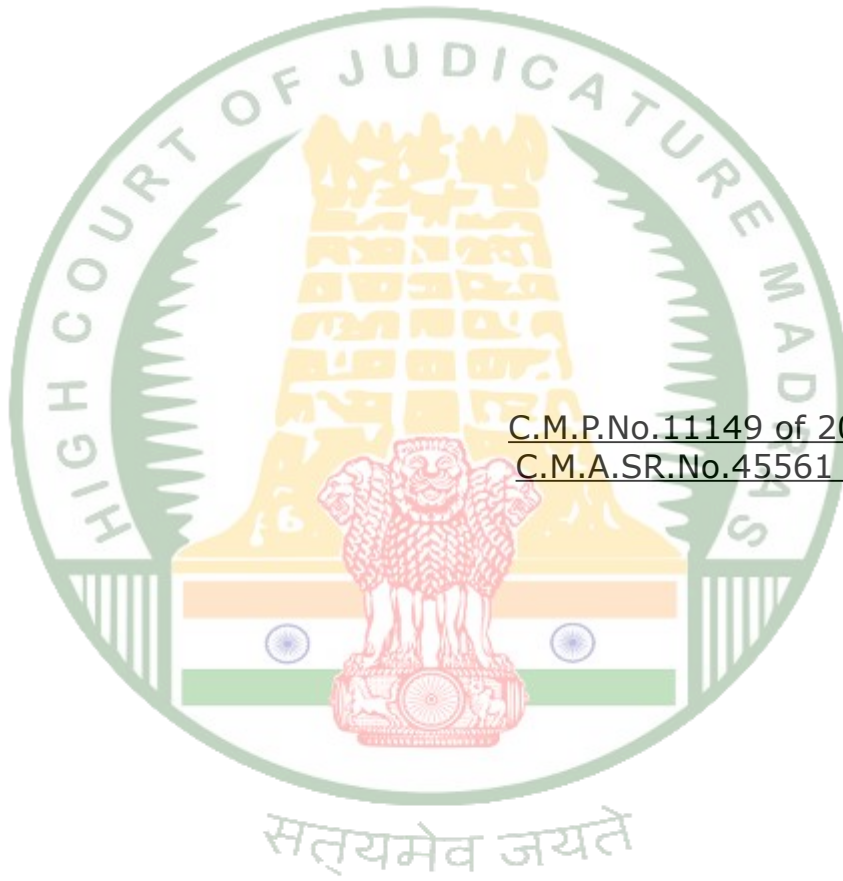
To

The Motor Accidents Claims Tribunal
Subordinate Judge, Chidambaram.

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V.M.VELUMANI,J.

Kj



C.M.P.No.11149 of 2018 and
C.M.A.SR.No.45561 of 2017

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