

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.P.No.11829 of 2018
and
C.M.A.SR.No.51942 of 2018

Anitha @ Antony

.. Petitioner

Vs.

1.M/s.New India Road Carriers
No.4E, Bye pass road
Gummidipoondi
Thiruvallur District.

(Since R1 remained *exparte* before the
Tribunal, hence his presence may be
dispensed with)

2.The National Insurance Company Limited
No.751, Anna salai
Chennai-600 002.

.. Respondents

PRAYER: C.M.P.No.11829 of 2018 is filed under Section 173(1) of
the Motor Vehicles Act, 1988, to condone the delay of 977 days in
filing C.M.A.SR.No.51942 of 2018.

C.M.A.SR.No.51942 of 2018 is filed under Section 173 of the
Motor Vehicles Act, 1988, against the judgment and decree dated
16.04.2015 made in M.C.O.P.No.3975 of 2013 on the file of the
Motor Accidents Claims Tribunal, Chief Judge of Small Causes Court,

For Petitioner : Mr.F.Terry Chella Raja
For R1 : Exparte
For R2 : Mr.J.Michael Visuvasam

ORDER

C.M.P.No.11829 of 2018 is filed to condone the delay of 977 days in filing C.M.A.SR.No.51942 of 2018.

C.M.A.SR.No.51942 of 2018 is filed against the judgment and decree dated 16.04.2015 made in M.C.O.P.No.3975 of 2013 on the file of the Motor Accidents Claims Tribunal, Chief Judge of Small Causes Court, Chennai.

2.The learned counsel appearing for the petitioner contended that only son of the petitioner, who helped her by doing part time job, died and that she is not able to go for any work. Therefore, she could not file the appeal in time due to her financial status. The delay is neither wilful nor wanton. Therefore, he prayed for condonation of delay in filing the Civil Miscellaneous Appeal.

3.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the second respondent 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 16.04.2015 and C.M.A. was filed on 09.07.2018. 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 reasons given by the petitioner for condonation of delay of 977 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.11829 of 2018 stands dismissed and consequently, C.M.A.SR.No.51942 of 2018 is rejected. No costs.

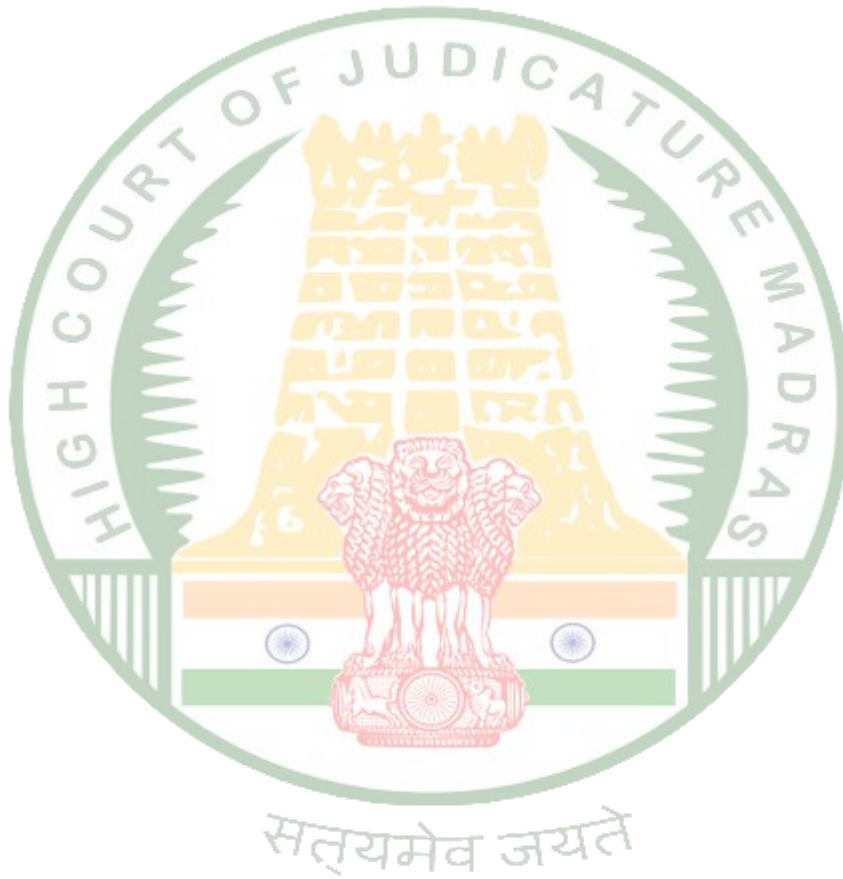
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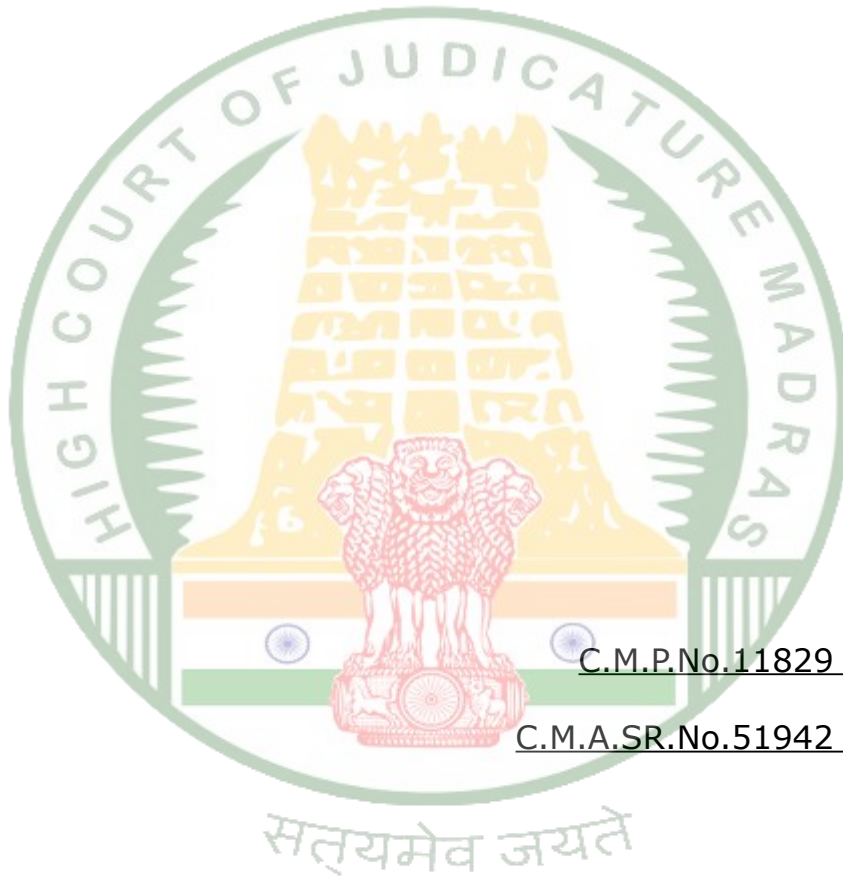
The Motor Accidents Claims Tribunal
Chief Judge, Small Causes Court
Chennai.



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V.M.VELUMANI,J.

Kj



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and
C.M.A.SR.No.51942 of 2018

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