

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.P.No.18906 of 2018

and

C.M.A.SR.No.107356 of 2018

1.Manjula

2.Minor. Nivada

3.Minor. Karthick

4.Minor. Sahana

5.Minor. Santhosh
(Minor petitioners 2 to 5 are
represented by their mother/guardian
1st appellant)

6.Munisamy Setty

7.Rathinamma

.. Petitioners

Vs.

1.T.Manikandan

2.The Branch Manager

Oriental Insurance Company Ltd.,
Branch Office Situated at No.17-A,
Krishnagiri Road, SKS Complex,
Ranipet, Vellore District.

.. Respondents

(No relief sought against 1st respondent.
Hence notice may be dispensed with)

PRAYER: C.M.P.No. 18906 of 2018 is filed under Section 173(1) of the Motor Vehicles Act, 1988, to condone the delay of 2120 days in filing the above appeal.

C.M.A.SR.No.107356 of 2018 is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 06.08.2012 made in M.C.O.P.No.1028 of 2011 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Krishnagiri.

For Petitioners : Mr.C.Prabakaran

For R2 : Mr.D.Bhaskaran

ORDER

C.M.P.No.18906 of 2018 is filed to condone the delay of 2120 days in filing the above appeal.

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C.M.A.SR.No.107356 of 2018 is filed against the judgment and decree dated 06.08.2012 made in M.C.O.P.No.1028 of 2011 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Krishnagiri.

2. According to the first petitioner, who has filed affidavit on behalf of the petitioners 2 to 7, she could not concentrate in prosecuting the case apart from mobilization of money for preparing the Civil Miscellaneous Appeal. The Insurance Company has deposited the amount only in the month of September 2015 and the major portion of amount was withdrawn by the petitioners in the month of February 2016. She met the counsel during the month of November 2016 and sought for the details of the case. In the meantime, bundle got mixed up with other bundles and it could not be traced out and during the month of May 2018 only, the bundle was traced out. 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 06.08.2012 and C.M.A. was filed on 03.10.2018. 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 petitioners have not given any valid reasons for condoning the delay except stating that the bundle got mixed up with other bundles. The reasons given by the petitioners for condonation of huge delay of 2120 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.18906 of 2018 stands dismissed and consequently, C.M.A.SR.No.107356 of 2018 is rejected. No costs.

21.12.2018

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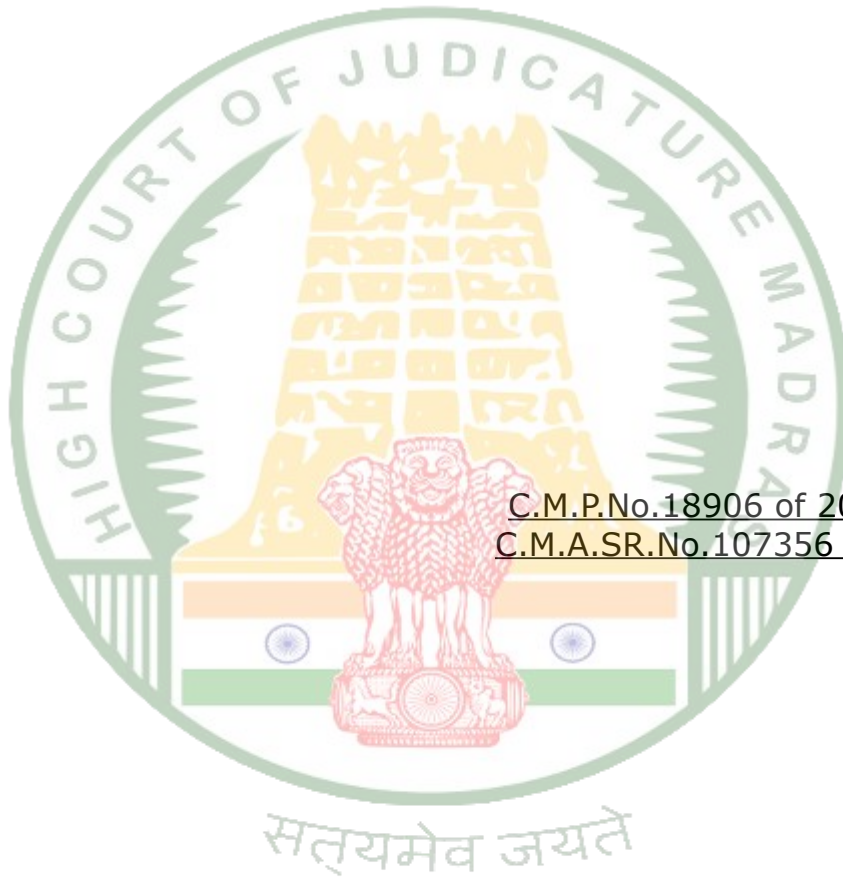
To

The Motor Accidents Claims Tribunal
Additional District Judge,
Krishnagiri.

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V.M.VELUMANI,J.

Kj



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