

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.P.No.18471 of 2018

and

C.M.A.SR.No.113632 of 2018

1.Chinnasamy
2.Pownraj
3.Kumar
4.Dhanalakshmi @ Jayalakshmi .. Petitioners

Vs.

1.Nagaraju
2.The Branch Manager
Oriental Insurance Company Limited
City Branch Office No.14
No.19/11, First cross
Chikkana Garden
Samrajpura, Bangalore-4. .. Respondents

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PRAYER: C.M.A.SR.No.113632 of 2018 is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 27.08.2007 made in M.C.O.P.No.306 of 2006 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate No.I, Krishnagiri.

C.M.P.No.18471 of 2018 is filed to condone the delay of 3995 days in filing the above C.M.A.

For Petitioners : Mr.C.Prabakaran

For R2 : Mr.J.Michael Visuvasam

ORDER

C.M.A.SR.No.113632 of 2018 is filed against the judgment and decree dated 27.08.2007 made in M.C.O.P.No.306 of 2006 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate No.I, Krishnagiri.

C.M.P.No.18471 of 2018 is filed to condone the delay of 3995 days in filing the above C.M.A.

2.The learned counsel appearing for the petitioners contended that due to the death of one Janaki, who is the wife of the first petitioner and mother of the petitioners 2 to 4, they could not concentrate on their day to day activities. The first petitioner who is a senior citizen, suffered illness for a period of one year and after recovery, the petitioners tried to get compensation from the first

respondent. Subsequently, in the month of November, 2009, the first petitioner met the counsel to get the compensation and again met the counsel in the month of November, 2013 and sought for details of the case. His counsel informed that the case bundle got mixed up with other bundles and could not trace out immediately. Only during March, 2018, the bundle was traced and C.M.A. was filed. The delay in filing the appeal is neither wilful nor wanton. Therefore, he prayed for condonation of delay in filing the Civil Miscellaneous Appeal.

3. Heard the learned appearing counsel for the petitioner as well as the second respondent/Insurance Company 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 award was passed on 27.08.2007 and C.M.A. is filed on 11.10.2018. It is well settled that 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

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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 petitioners for condonation of delay of 3995 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.18471 of 2018 stands dismissed and consequently, C.M.A.SR.No.113632 of 2018 is rejected. No costs.

19.11.2018

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To

The Motor Accidents Claims Tribunal
Chief Judicial Magistrate No.I, Krishnagiri.

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and
C.M.A.SR.No.113632 of 2018