



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Tuesday, the Nineteenth day of June Two Thousand Eighteen

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PRESENT

The Hon`ble Mr.Justice K.RAVICHANDRABAABU
and
The Hon`ble Mrs.Justice T.KRISHNAVALLI

CMP(MD) No.1153 of 2018
IN
CMA(MD) No.SR4359 of 2018

ICICI BANK
REP. BY ITS MANAGER

... PETITIONER / 5th OPPOSITE PARTY

Vs

1 C.A.DEVI
2 SIVA SARASWATHI (MINOR)
D/O.LATE.RAMANATHA PILLAI
3 SIVAKUMAR (MINOR)
D/O.LATE.RAMANATHA PILLAI

4 MATHAMMAI ... RESPONDENTS / PETITIONERS
(MINOR RESPONDENTS 2 & 3 ARE REPRESENTED
BY THEIR MOTHER AND GUARDIAN 1st
RESPONDENT)

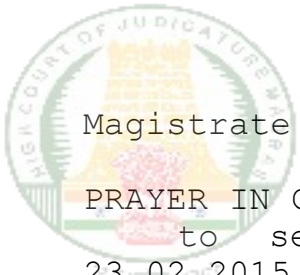
5 N.NEELESWARAN
6 R.RAJASEKAR

7 UNITED INDIA INSURANCE COMPANY LTD.,
REP. BY ITS MANAGER
NAGERCOIL & POST AND VILLAGE,
AGASTEESWARAM TALUK,
KANYAKUMARI DISTRICT

8 ORIENTAL INSURANCE COMPANY
REP. BY ITS MANAGER
DDJ CENTRE, 1ST FLOOR
OPP. VADASERY BUS STAND,
NAGERCOIL, NAGERCOIL VILLAGE
AGASTEESWARAM TALUK,
KANYAKUMARI DISTRICT

... RESPONDENTS /1st to 4th OPPOSITE
PARTIES

Petition praying that in the circumstances stated therein
and in the affidavit filed therewith the High Court will be pleased
to condone the delay of 949 days in filing the appeal against the
award passed by the Motor Accident Claim Tribunal and Chief Judicial



Magistrate in M.C.O.P.No.41/2013 and thus render justice.

PRAYER IN CMA(MD) No.SR4359 of 2018:-

to set-aside the award passed in MCOP.NO.41/2013 dated 23.02.2015 on the file of the Motor Accidental Claim Tribunal and Chief Judicial Magistrate Court, Nagercoil by allowing this Civil Miscellaneous Appeal.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mrs.J.ALAGURAM JOTHI, Advocate for the petitioner and of Mr.N.S.RAMAKRISHNADASS, Advocate for R1 to R4, R7 is not appeared either in person or by an Advocate, on behalf of the Respondents the court made the following order:-

This application is filed seeking to condone the delay of 949 days in filing the appeal. This application is opposed by filing a counter. The petitioner bank contended that by wrong advice, a Civil Revision Petition was filed before this Court as against the award passed by the Motor Accident Claims Tribunal, Nagercoil, in M.C.O.P.No.41 of 2013 in C.R.P.(MD)SR.No.41338 of 2017 and the same was returned on 08.11.2017. Therefore, it is contended that after realising the mistake with regard to the maintainability of such revision, the present appeal is filed before this Court, which caused a delay of 949 days. Therefore, it is contended that the delay is neither wilful nor wanton.

2.The learned counsel appearing for the respondent contended that on merits, the appellant is not having any case. He further contended that choosing a wrong Forum cannot be an excuse for condoning the delay.

3.When the matter was listed before us earlier, we directed the learned counsel appearing for the appellant to produce the return papers of the C.R.P.(MD)SR.No.41338 of 2017, in order to ascertain the *bona fide* of the appellant. Accordingly, today the learned counsel produced those return papers.

4.Perusal of the same would show that the appellant has wrongly chosen to file Civil Revision Petition instead of filing the appeal. In any event, the appellant being the bank should have been vigilant and careful in choosing the correct Forum to challenge the award passed by the Tribunal. In not doing so, the petitioner/appellant has caused the delay of 949 days in filing the present appeal. Therefore, we are of the view that the petitioner/appellant must pay some cost for their negligence. Accordingly, this petition is allowed subject to condition that the petitioner/appellant pays a sum of Rs.1,000/- (Rupees One Thousand Only) as costs, to the Mediation and Conciliation Centre, attached to this Bench, within



seven days from today, failing which, this petition shall stand automatically dismissed

sd/-
19/06/2018

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/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE CHIEF JUDICIAL MAGISTRATE /
MOTOR ACCIDENT CLAIMS TRIBUNAL,
NAGERCOIL

COPY TO:-

THE CO-ORDINATOR,
MEDIATION AND CONCILIATION CENTRE,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1. C.C. to M/S.J.ALAGURAM JOTHI Advocate SR.No.10813

RJ2
JAM/21/06/2018/ CSL-RR /VK / 3P-4C

ORDER
IN
CMP (MD) No.1153 of 2018
IN
CMA (MD) No.SR4359 of 2018
Date :19/06/2018