



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2018

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.P. (MD)No.1814 of 2016

in

C.M.A. (MD)No.SR46926 of 2015

and

C.M.A. (MD)No.SR46926 of 2015

The Branch Manager,
The Oriental Insurance Company Ltd.,
Coonoor. ... Petitioner / Appellant

Vs.

1.A.Ayisha Banu
2.Minor A.Muhammad Razik
3.Minor A.Muhammad Aashik
4.Neelabeevi
5.S.Duraisamy ... Respondents / Respondents

[Minor respondents 2 & 3 are rep. through
their mother / next friend, the first respondent herein]

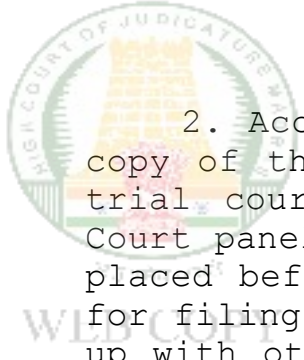
PRAYER in C.M.P. (MD)No.1814 of 2016:- Petition filed to condone the delay of 1913 days in preferring the civil miscellaneous appeal in C.M.A. (MD)No.SR46926 of 2015 against the order dated 18.02.2010 made by the Motor Accidents Claims Tribunal cum Sub Court, Palani in M.C.O.P.No.22 of 2006.

PRAYER in C.M.A. (MD)No.SR46926 of 2015:- Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 18.02.2010, made in M.C.O.P.No.22 of 2006, on the file of the Motor Accidents Claims Tribunal cum Sub Court, Palani.

For Petitioner
/ Appellant : Mr.C.Jawahar Ravindran
For Respondents : Mr.H.Arumugam
1 to 3
For R4 & R5 : No representation

ORDER

The present petition is filed to condone the delay of 1913 days in filing the Civil Miscellaneous Appeal against the order dated 18.02.2010 made by the Motor Accidents Claims Tribunal cum Sub Court, Palani, in M.C.O.P.No.22 of 2006.



2. According to the petitioner, after obtaining the certified copy of the order dated 18.02.2010 opinion was obtained from the trial court Advocate and obtained second opinion from the High Court panel Advocate. After obtaining two opinions, the matter was placed before the appeal committee. The appeal committee approved for filing the appeal. In the meantime, the appeal file got mixed up with other bundles. After tracing the file, the present appeal is filed. The delay in filing the appeal is neither willful nor wanton and unless the delay is condoned, the petitioner will be put to irreparable loss and hardship and great prejudice will be caused to the petitioner.

3. The learned counsel for the respondents 1 to 3 submitted that the appellant has not given any valid reason for the huge delay of 1913 days. The respondents 1 to 3 proved the negligence of the fifth respondent by letting in oral and documentary evidence for the death of the husband of the first respondent and the father of the respondents 2 and 3 and the son of the fourth respondent. The Tribunal has awarded compensation for the death and prayed for dismissal of the Civil Miscellaneous Appeal.

4. Heard the learned counsel appearing for the petitioner and the respondents 1 to 3 and perused the materials available on record.

5. The petitioner, having obtained certified copy of the order on 18.02.2010, ought to have filed appeal within the time limit granted by the statute. The reason given by the petitioner for the delay is not a valid reason. The petitioner has not furnished any details with regard to as to how the delay has occurred. The petitioner as the Insurance Company ought to have taken decision to file an appeal within the reasonable time. It is well settled that the length of delay is not a criteria. The reason given by the parties must be sufficient and valid. In the present case, the reason given by the petitioner is not sufficient to condone the delay of 1913 days.

6. In the result, this petition is dismissed. Consequently, C.M.A. (MD) No. SR46926 of 2015 is rejected in SR stage itself.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar(CS-II)

To

<https://hcservices.hcscourtsonline.org>
 The Subordinate Judge, Sub Court,
 Motor Accidents Claims Tribunal, Palani.



Copy to

The Record Keeper, (2 copies)
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

CM

VB/RP/SAR2/18.09.2018/3P/4C

**C.M.P. (MD) No.1814 of 2016
in
C.M.A. (MD) No.SR46926 of 2015
and
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