



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

Thursday, the Sixth day of September Two Thousand Eighteen

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PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CMP(MD) No.4461 of 2018
IN
CMA(MD) No.SR18175 of 2018

M/S.UNITED INDIA INSURANCE CO LTD,
POST OFFICE ROAD,
PALAYAMKOTTAI,
TIRUNELVELI.

... PETITIONER/APPELLANT

Vs

1 R.THIRUVENGADAM
2 A.MARKANDAN
3 M.DURAIPANDI
4 THE NEW INDIA ASSURANCE CO. LTD.,
242/B, KAMARAJAR SALAI,
MADURAI.
5 SARDAR
6 S.MANIMARAN
7 THE NEW INDIA ASSURANCE CO. LTD.,
242B, KAMARAJAR SALAI,
MADURAI.
8 S.NIRMAL
9 A.MUHAMED ASHIK

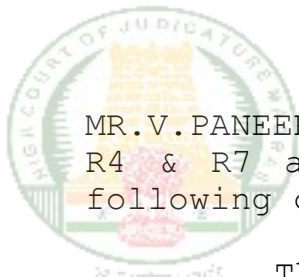
... RESPONDENTS/RESPONDENTS

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 2660 days in filing the Civil Miscellaneous appeal against the judgment and decree dated 15.07.2010 passed in M.C.O.P.No.2177 of 2002 on the file of Motor Accidents Claims Tribunal (IV Additional Sub-Court), Madurai and thus render justice.

PRAYER IN CMA(MD) No.SR18175 of 2018 :

To set aside the Judgment and Decree dated 15.07.2010 made in M.C.O.P.No.2177 of 2002 on the file of Motor Accidents Claims Tribunal (IV Additional Sub-Court), Madurai and thus render justice.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.I.SUTHAKARAN, Advocate for the petitioner and of



MR.V.PANEERSELVAM, Advocate for R6 and MR.J.S.MURALI, Advocate for R4 & R7 and No Appearance for R3, R5 & R8, the court made the following order:-

This petition has been filed to condone the delay of 2660 days in filing the above Civil Miscellaneous Appeal, against the Judgment and Decree dated, 15.07.2010 made in MCOP.No.2177 of 2002, on the file of the Motor Accidents Claims Tribunal / IV Additional Subordinate Judge, Madurai.

2. The petitioner is the 9th respondent in claim petition filed by one R.Thiruvengadam, who is the first respondent herein. The Tribunal originally passed an Award dated 15.07.2010, directing the respondents 2, 3, 5 and 6 in the claim petition, to pay the compensation of Rs.3,95,204/- jointly and severally. The respondents 3 and 6 / respondents 4 and 7 herein filed Review Petition in E.A.No.246 of 2011 in MCOP.No.2177 of 2002, directing the respondents 2, 3, 8 and 9 in claim petition, who are the respondents 3, 4, 9 and the petitioner herein to pay the compensation jointly and the said petition was allowed by the Tribunal on 04.09.2013. In such circumstances, the petitioner has filed the present petition to condone the delay of 2660 days in filing the above appeal, against the Award of the Tribunal, made in MCOP.No.2177 of 2002, dated 15.07.2010.

3. According to the petitioner, the vehicle belonging to the 9th respondent was not insured with the petitioner and therefore, the petitioner is not liable to pay any compensation and they have been exonerated from liability, as per the Original Award passed by the Tribunal dated, 15.07.2010. It is further stated that the file relating to the claim petition was misplaced in their office and it was traced out only in October 2017. Subsequently, they have filed the present appeal along with the petition to condone the delay of 2660 days in filing the above Civil Miscellaneous Appeal.

4. The learned counsel appearing for the petitioner submitted the delay is neither wilful nor wanton. He further submitted that the petition may be ordered on payment of cost of Rs.5,000/- and an opportunity may be given to the petitioner to contest the case on merits.

5. I have heard the learned counsel appearing for the petitioner and the respondents 4, 6 and 7.

6. Considering the facts and circumstances of the case and also considering the fact that the petitioner is ready and willing to pay a sum of Rs. 5,000/- as cost, this petition is allowed and the delay is condoned, on payment of cost of Rs.5,000/- (Rupees Five Thousand only) to Rojavanam, Home for Old Aged, Melur Road, Uthangudi-Ulaganeri, Madurai - 625 107, within a period of two weeks from the date of receipt of a copy of this order, failing which, this petition shall stand dismissed automatically without any further reference to this Court.



7. If the aforesaid condition is complied with within the time stipulated, and if the papers are in order, Registry is directed to number the appeal and post the same for admission.

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sd/-
06/09/2018

/ TRUE COPY /

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

TO

THE MOTOR ACCIDENT CLAIMS TRIBUNAL
(IV ADDITIONAL SUB-COURT), MADURAI.

COPY TO:

THE OFFICER INCHARGE,
ROJAVANAM,
HOME FOR OLD AGED, MELUR ROAD,
UTHANGUDI-ULAGANERI,
MADURAI - 625 107.

ORDER
IN
CMP(MD) No.4461 of 2018
IN
CMA(MD) No.SR18175 of 2018
Date :06/09/2018

JM/VR MMS/SAR 1/03.10.2018/3P/3C