



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2018

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

CMP (MD) .No.7492 of 2018

and

CMA (MD) .SR.No.31784 of 2018

The Divisional Manager,
The New India Assurance Company Limited,
242-B, Kamarajar Salai,
Madurai - 9

... Petitioner

Vs.

1. Devaki
2.Minor Sarojini
3.Minor Balaji
4.Sethupandi
(Minors rep. by respondent No.1)
5.Janakiram

... Respondents

Prayer in CMP: This Petition is filed under Section 173(1) of Motor Vehicles Act to condone the delay of 3746 days in filing the above Civil Miscellaneous Appeal.

Prayer in CMA.SR.: This petition is filed under Section 173 of Motor Vehicles Act against the Judgment and Decree in MCOP.No.312 of 2005, dated 31.01.2008, on the file of the Motor Accidents Claims Tribunal / Additional District Court, Fast Track Court, Ramanathapuram.

For Petitioner ... Mr.J.S.Murali

ORDER

This Petition has been filed to condone the delay of 3746 days in filing the above Civil Miscellaneous Appeal.

2. According to the petitioner / Insurance Company, he has filed an appeal against the Award dated, 31.01.2008 passed in MCOP.No.312 of 2005, on the file of the Motor Accidents Claims Tribunal / Additional District Judge, Fast Track Court, Ramanathapuram. He has filed the copy application on 06.04.2018 to obtain the certified copy of the award, dated 31.01.2008 and the said Award was made ready on 19.04.2018 and the petitioner has taken delivery of the Award on 25.04.2018. Subsequently, the petitioner obtained opinion from the Panel Advocate and filed appeal. In view of the same, the delay of 3746 days has occurred in filing the above appeal.



3. I have heard the learned counsel appearing for the petitioner / Insurance Company and perused the materials available on record.

4. From the affidavit filed in support of the petition it is seen that, the petitioner / Insurance Company has not given any reason for not applying and obtaining copy of the Award till 06.04.2018. The petitioner filed copy application only on 06.04.2018 and he has not explained as to why the copy application was filed after the delay of about 10 years. The reasons given by the petitioner are not sufficient to condone the delay.

5. The petitioner / Insurance Company is ought to have taken steps to protect their interest without any delay. The provision of Motor Vehicles Act is beneficial legislation for the benefit of the victims or injured in the accident. Not applying copy of the award till 06.04.2018 shows negligence and indifferent attitude of the officials of the petitioner. The petitioner cannot agitate the award after 10 years of passing award. It is well settled principles of law that application to condone the delay must be considered liberally and length of delay is not a criteria. The reason given by a party must be sufficient and valid for condoning the delay and the intention of the party must be bona fide. But, in the present case, the petitioner has not given any valid reasons for condoning the delay. Hence, this Court is not inclined to allow this petition.

6. In the result, this petition is dismissed. No costs. Consequently, the CMA(MD).SR.No.31784 of 2018 is rejected.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The Motor Accidents Claims Tribunal,
IV Additional District Judge, Madurai.

+1cc to Mr.J.S.Murali, Advocate Sr.No.79817

TRP

VB/SKN/SAR1/12.10.2018/2P/3C

CMP(MD).No.7492 of 2018 and
CMA(MD).SR.No.31784 of 2018

21.08.2018