

HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CIVIL MISCELLANEOUS APPEAL No.61 of 2007

JUDGMENT:

This appeal is filed against the order dated 26.07.2005 whereby the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Ongole dismissed the application filed for condonation of delay in filing W.C.No.2 of 2005.

The applicants are wife and minor children of one late Nagendram, who died in an accident that supposedly arose out of and in the course of employment on 09.06.1999. The applicants filed W.C.No.2 of 2005 before the Commissioner for Workmen's compensation claiming compensation of Rs.2,00,000/-. The applicants also filed W.C.M.P.No.2 of 2005 to condone the delay of 1340 days in filing the said W.C.

It is the case of the 1st applicant that she was promised to be paid some compensation from the respondents office and believing the same, she did not file the case in time. It is also her case that she is uneducated and innocent, and as such, she was unable to file the case in time. She stated in her affidavit that she was not aware of the Court litigations, etc.

Learned counsel for the respondents, on the other hand, argued that no sufficient cause is shown in the application to condone the delay and there is no proper explanation at all.

Learned counsel for the respondent relied on a judgment of Karnataka High Court in ***Karnataka Soaps and Detergents***

Limited v. Hanumanthamma alias Hanumakka¹, wherein in similar circumstances, a single Judge of the Karnataka High Court did not interfere with the condonation of delay in filing the claim petition. Learned counsel for the respondent also argued that the death of the worker did not occur during and in the course of employment. However, these are the matters to be agitated before the Commissioner of Workmen's Compensation.

Irrespective of the merits and demerits of the respective contentions, this Court is of the opinion that illiteracy and the innocence of the applicant is a ground to condone the delay and an opportunity should be given to the applicants to contest the case. By allowing this application, the respondents are not precluded from introducing any evidence and defeating the case on merits. On the other hand, if the delay is not condoned, a genuine case may be thrown out at the threshold.

After hearing the counsel for the petitioner and considering the averments in the affidavit and in the peculiar circumstances of the case, the appeal is allowed setting aside the impugned order dated 26.07.2005 in W.C.No.20 of 2005 on the file of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Ongole, on payment of costs of Rs.2,000/- to the 1st respondent within ten days from the date of receipt of a copy of this order, failing which the appeal stands dismissed.

¹ 2001 LawSuit(Kar) 486

The Miscellaneous Petitions, if any, pending shall stand closed.

D.V.S.S.SOMAYAJULU, J

Date : 30.01.2018
ssp

