

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2019

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

C.M.P.No.11418 of 2016  
and  
C.M.A.SR.No.39197 of 2016

1. Selvi
2. Premanandh (minor)
3. Vijaya Anandh (minor)
4. Sumesh Anandh (minor) .. Petitioners

(minor petitioners 2 to 4 rep. by  
their mother and natural guardian  
first petitioner)

Vs.

1. M/s.Alwar General Finance Co (P) Ltd.  
Aggrual Bhavan Road No.2,  
Alwar.
2. The New India Assurance Co.Ltd,  
Moore Street, Chennai – 1. .. Respondents

**PRAYER:** C.M.P.No.11418 of 2016 is filed under Section 173(1) of the Motor Vehicles Act, to condone the delay of 2602 days in filing the above appeal.

C.M.A.SR.No.39197 of 2016 is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated

24.11.2008 made in M.C.O.P.No.1851 of 2005 on the file of the Motor Accident Claims Tribunal-cum-Chief Judge, Small Causes Court, Chennai.

For Petitioner : Mr. S.Ravikumar  
For R1 : No appearance  
For R2 : Mr.K.Thirunavukarasu

### **ORDER**

C.M.P.No.11418 of 2016 is filed to condone the delay of 2602 days in filing the above appeal.

C.M.A.SR.No.39197 of 2016 is filed against the judgment and decree dated 24.11.2008 made in M.C.O.P.No.1851 of 2005 on the file of the Motor Accident Claims Tribunal-cum-Chief Judge, Small Causes Court, Chennai.

2.According to the petitioners, the award was passed on 24.11.2008, copy application was filed on 08.10.2014 and copy of the award was made ready on 03.12.2014. Due to the accident, the petitioners could not mobilise the funds for payment of Court fee and hence there was a delay of 2602 days in filing the appeal. The delay is neither wilful nor wanton and prayed for condonation of delay in filing the Civil Miscellaneous Appeal.

3. Heard the learned counsel appearing for the petitioners and perused the materials available on record.

4. From the averments made in the affidavit filed in support of this petition, it is seen that the award was passed on 24.11.2008 and copy application was filed on 08.10.2014. The petitioners have not given any valid reason for not applying the copy application immediately and the reasons given by the petitioners for condoning such a huge delay of 2602 days are not valid. In view of the same, this Court is not inclined to condone the delay. Accordingly, C.M.P.No.11418 of 2016 stands dismissed and consequently, C.M.A.SR.No.39197 of 2016 is rejected. No costs.

28.01.2019

rst/kj  
To

Motor Accident Claims Tribunal,  
Chief Judge,  
Small Causes Court,  
Chennai.

**V.M.VELUMANI, J.**

rst/kj

C.M.P.No.11418 of 2016  
and C.M.A.SR.No.39197 of 2016

28.01.2019