



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2019

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CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.P. (MD) No.218 of 2019

in

CMA(MD) .No.SR252 of 2019

The Tamil Nadu State Transport Corporation
Bye Pass Road
Madurai
Through its
The Managing Director

: Petitioner/Appellant

Vs.

1. Alagu@Alagar
2. P.Muthulakshmi
3. The Oriental Insurance Company Ltd.,
Represented through its
Division Manager
D.No.16, North Veli Street
Madurai.

: Respondents/Respondents

PRAYER in C.M.P(MD) .No.218 of 2019: The Civil Miscellaneous Petition has been filed under Section 173(1) of Motor Vehicles Act 1911 to condone the delay of 1138 days in filing the above civil miscellaneous appeal against the judgment and decree dated 06.07.2015 in MCOP.No.1312 of 2014 on the file of the Motor Accident Claims Tribunal(Special Sub Court), Madurai.

PRAYER in C.M.A. (MD) .SR.No.252 of 2019: The Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 06.07.2015 passed in M.C.O.P.No.1312 of 2014 on the file of the Motor Accident Claims Tribunal (Special Sub Court), Madurai.

For Petitioner : Mr.K.Sudalaiyandi
For R1 : Mr.S.Thirupathy
For R2 : No appearance
For R3 : Mr.K.Baskaran

O R D E R

This petition has been filed by the Tamil Nadu State Transport Corporation seeking to condone the delay of 1138 days in filing the civil miscellaneous appeal.



2.It is seen from Paragraph No.6 of the affidavit that the petitioner has not given any acceptable reason to condone the delay and the same reads as follows:

"6.I humbly submit that the tribunal passed the judgment and decree on 06.07.2015. The lower Court counsel applied for the certified copy on 07.07.2015 and the judgment and decree were made ready on 24.08.2015 and the same was received by the lower Court counsel on 25.08.2015 and he sent to the Judgment and Decree along with his legal opinion to this petitioner office. Since the certified copies of the Judgment and decree of the Judgment and Decree were misplaced in the petitioner's office and after the search the papers were traced out in the month of October 2018 and after getting proper sanction from the financial committee, this appeal preferred before this Hon'ble Court with delay of days. In the above said reason a delay of 1138 days is occurred to prefer this present civil miscellaneous appal before this Hon'ble Court. The above said delay is neither wilful nor wanton but only in the circumstances stated above. Unless the delay is condoned, the petitioner corporation will be put to great prejudice and much hardship".

3.The delay is not minimal and it is a very long delay. The reasons stated for the delay are not acceptable reasons.

4.In **State of Bihar vs. Deo Kumar Singh (SLP(Civil) No.13348/2019 dated 09.05.2019**, the appeal was filed with the delay of 728 days stating that the delay occurred in obtaining all the sanctions from the respective departments and also in receiving the affidavit and vakalathnama from the concerned department. The Hon'ble Supreme Court in the said case, has held that a clear signal has to sent to the Government Authorities that they cannot approach the Court as and when they please on account of gross incompetence of their officers and that too without taking any action against the concerned officers. Ultimately, in the said case, the Apex Court while declining to condone the delay of 728 days in filing the appeal, imposed the cost of Rs.20,000/- to be recovered from the officers responsible for that delay and be deposited to the Mediation Centre of the Supreme Court within four weeks.

5.By relying on the above Judgment, the reasons assigned by the petitioner are not satisfactory or sufficient reasons to condone such long delay in filing the appeal. Therefore, this Court is not inclined to condone the delay of 1138 days in filing the Civil Miscellaneous Appeal.



6. Accordingly, this petition is dismissed. In view of the order passed in CMP(MD)No.218 of 2019, the connected C.M.A.(MD) SR.No.252 of 2019 is rejected at the SR stage itself. No costs.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

msa

To

The Motor Accident Claims Tribunal (Special Sub Judge),
Madurai.

+ 1 CC to Mr.K.Sudalaiyandi, Advocate in SR.No.682241

+ 1 CC to Mr.K.Baskaran, Advocate in SR.No.68356

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in
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12.06.2019

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