



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2019

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

C.M.P. (MD) No.7911 of 2019

in

CMA(MD).No.SR46427 of 2011

The Divisional Manager
The National Insurance Company Limited
1st Floor, 135/1, Rose Building Main Road
Kovilpatti

: Petitioner/Appellant

Vs.

1.R.Karpagavalli
2.Minor Om Prakash
3.Minor Om Suriya Prakash
(Minors 2 and 3 are represented through their
mother and natural guardian 1st respondent
herein)
4.Veluchamy
5.Kaliammal
6.Ramnath

: Respondents/Respondents

PRAYER in C.M.P(MD).No.7911 of 2019: The Civil Miscellaneous Petition has been filed under Order IV Rule 9(4) of Appeal Suit Rules to condone the delay of 2865 days in representing the C.M.A.Sr.No.46427 of 2011.

PRAYER in C.M.A.(MD).SR.No.46427 of 2011: The Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 31.03.2011 passed in M.C.O.P.No.24 of 2008 on the file of the Motor Accident Claims Tribunal, Sub Court, Sivakasi.

For Petitioner : Mr.D.Sivaraman

O R D E R

This petition has been filed by the petitioner seeking to condone the delay of 2865 days in representing the above Civil Miscellaneous Appeal.

2.It is seen from Paragraph No.3 of the affidavit that the petitioner has not given any acceptable reason to condone the delay and the same reads as follows:

"3.It is submitted that the above C.M.A was originally
filed on 5th September, 2011 and the same was returned by the



Registry for compliance of certain defects on 07.09.2011. The above defects have been complied with and due to the delay caused in getting sanction from the Finance Committee for making the pre-conditioned deposit and due to some administrative reasons, there was a delay in making the initial deposit and obtaining necessary documents such as deposit receipt, the papers could not be represented in time. Hence, there was a delay of 2865 days in representing the above Civil Miscellaneous Appeal before this Court and the delay in representing is neither wilful nor wanton but only due to the reasons stated above. I submit that the petitioner herein has got fair chances of succeeding in the appeal and hence, unless the above delay in representing the above appeal is condoned, the petitioner would be put to irreparable loss and 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.

6.By relying on the above Judgment, the reasons assigned by the petitioner are not satisfactory or sufficient reasons to condone the delay in representing the appeal. Therefore, this Court is not inclined to condone the delay of 2865 days in representing the above Civil Miscellaneous Appeal.

7.Accordingly, this petition is dismissed. In view of the order passed in CMP(MD)No.7911 of 2019, the connected C.M.A. (MD) SR.No.46427 of 2011 is rejected at the SR stage itself. No costs.

Sd/-
Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar



To

The Motor Accident Claims Tribunal,
/Subordinate Judge, Sivakasi

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-84661[F] dated 30/08/2019)

C.M.P. (MD) No.7911 of 2019

in

CMA (MD) .No.SR46427 of 2011

30.08.2019

msa

JM/25.09.2019/3P/3C