



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 30.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

WEB COPY

CMP(MD)No.8955 of 2019
in
CMA(MD)No.SR9933 of 2019

The Tamil Nadu State Transport Corporation Ltd.,
Madurai Division III
Ranithottam, Nagercoil,
Kanyakumari District
Rep. by its Managing Director. ... Petitioner/Appellant

versus

1. David
2. Dominic Franklin
3. Nancy Davidson
4. Diana Davidson @ Anusha
5. Chellaperumal ... Respondents/Respondents

(5th respondent, who is driver
of the appellant is given up)

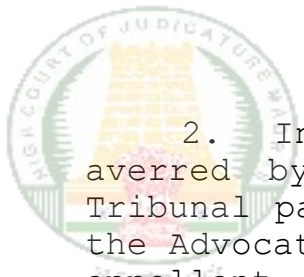
Prayer in CMP(MD)No.8955 of 2019: Petition filed under Section 173 (1) of Motor Vehicles Act, 1988, seeking to condone the delay of 2365 days in filing the appeal against the award dated 06.10.2012 made in M.C.O.P.No.71 of 2010 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Kanyakumari District at Nagercoil.

Prayer in CMA(MD)No. SR9933 of 2019: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 06.10.2012 made in M.C.O.P.No.71 of 2010 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Kanyakumari District at Nagercoil.

For Petitioner : Mr.P.Prabhakaran

ORDER

This Civil Miscellaneous Petition has been filed by the Transport Corporation, seeking to condone the delay of 2365 days in filing the appeal against the award dated 06.10.2012 made in M.C.O.P.No.71 of 2010 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Kanyakumari District at Nagercoil.



2. In the affidavit filed in support of this petition, it is averred by the appellant Transport Corporation that though the Tribunal passed an award on 06.10.2012 and since the letter sent by the Advocate, who appeared before the Tribunal, did not reach to the appellant, they came to know about the passing of award only on 02.03.2019. However, they filed appeal on 04.03.2019. The Registry returned the papers for production of certified copy of decree on 22.03.2019 and the appellant also applied for the same on 11.06.2019, a copy of which was made ready only on 03.07.2019. It is further averred that after getting approval and sanction from the authorities concerned, the appeal papers were handed over to the counsel on 06.07.2019. Therefore, the delay of 2365 days has occurred.

3. A perusal of the pre-condition deposit receipt, which has been filed before this court reveals that the appellant Transport Corporation has deposited a sum of Rs.25,000/- vide a cheque bearing No.986170, dated 19.01.2018. This shows that there is no truth in the averments made in the affidavit that the appellant came to know about the passing of award only on 02.03.2019. Therefore, the reasons stated by the appellant are not acceptable and the same is liable to be dismissed.

4. In the result, the Civil Miscellaneous Petition filed to condone the delay of 2365 days in filing the appeal is dismissed. Consequently, the Civil Miscellaneous Appeal is also rejected at the SR stage itself.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

Ogy

To

The Motor Accident Claims Tribunal
(Chief Judicial Magistrate Court),
Kanyakumari District at Nagercoil.

CMP (MD) No.8955 of 2019 in
CMA (MD) No. SR9933 of 2019
30.09.2019

VB (31.12.2019) 2P 2C