

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

I.A.No.1 of 2018 in M.A.C.M.A.No.389 of 2018

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M.A.C.M.A.No.389 of 2018

ORDER:

I.A.No.1 of 2018 is filed under Section 5 of the Limitation Act to condone the delay of 1002 days in filing the appeal under Section 173 of the Motor Vehicles Act, 1988 against the award dt.27-01-2015 in O.P.No.104 of 2012 on the file of the Chairman, MACT-cum-II Additional District Judge, Karimnagar, at Jagtial.

2. Petitioners are respondents Nos.1 and 2 in the O.P. and they are the owner and driver of the Jeep vehicle which was involved in the accident in which the son of respondent Nos.1 and 2 died.

3. In the affidavit filed in support of this application, petitioners contended that the counsel in the Court below did not inform the petitioners about fastening of liability on the petitioners, who are the owner and driver of the vehicle, and that they were under impression that the award might have been passed against the Insurance Company. They stated that when they received notice dt.10-08-2017 in E.P.No.2 of 2017 in O.P.No.104 of 2012, they immediately approached the counsel and requested to furnish certified copy of the award; and thereafter, they took the same from the counsel. He therefore contended that the delay in filing the appeal must be condoned.

4. Sri K.Ajay Kumar, learned counsel, filed counter affidavit on behalf of 5th respondent and contended that delay should not be condoned

and sufficient cause has not been shown by the petitioner for contention of the same.

5. It is not in dispute that the petitioners had received summons in O.P.No.104 of 2012 and they had filed their counter affidavit therein and the 1st petitioner had also examined himself as R.W.2. Therefore, they cannot plead that they are ignorant of the proceedings in the O.P. The order in the O.P. was admittedly pronounced on 27-01-2015 and the petitioners ought to have found out what was the order pronounced subsequently. They cannot blame their counsel for not informing them that liability had been fastened on them. Petitioners appear to be totally negligent in enquiring about what happened in the O.P. and in taking steps immediately to challenge the order passed in the O.P. which is adverse to them.

6. I am therefore of the opinion that the petitioners had not shown any sufficient cause for condonation of inordinate delay of 1002 days in filing the appeal.

7. Accordingly, I.A.No.1 of 2009 is dismissed and consequently, the appeal is also dismissed. No costs.

8. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 11-02-2019
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