

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17-07-2020

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.P.No.4024 of 2020
in
C.M.A.SR No.20174 of 2020

1.Kuppayi
2.K.Tamilarasi
3.S.Kavitha
4.S.Sekar
5.S.Savitha ... Petitioners/Appellants

Vs.

1.K.Kalivarathan
2.The Divisional Manager,
United India Insurance Company Ltd.,
D.O.No.13A, Nethaji Road,
Cuddalore-607 001. ... Respondents/Respondents

Prayer : This Miscellaneous Petition is filed by the petitioner under Section 173 (1) of Motor Vehicles Act, 1988, to condone the delay of 484 days in filing the above appeal.

For Petitioners : Ms.Ramya V.Rao

For Respondent-1 : No Appearance

For Respondent-2 : Mr.D.Bhaskaran

ORDER

The Civil Miscellaneous Petition is filed to condone the delay of 484 days in filing the Civil Miscellaneous Appeal against the judgment and decree dated 26.06.2018 passed by the learned Principal District Judge, Principal District Court-Motor Accident Claims Tribunal, Cuddalore in MCOP No.1242 of 2015

2. The learned counsel appearing on behalf of the petitioners mainly contended that the Award was passed by the Motor Accident Claims Tribunal on 26.06.2018 and the counsel for the appellants filed copy application on 11.01.2020 and the copies were made ready on 04.02.2020 and were received on 05.02.2020. The learned counsel informed the appellants that the Tribunal has erroneously fixed the monthly notional income at Rs.6,000/- in respect of the accident took place in the year 2015. Affidavit filed in respect of the civil miscellaneous petition reveals that the first appellant-first petitioner had undergone treatment for Uterus related issues and therefore, the civil miscellaneous appeal is unable to be filed in

time.

3. The learned counsel appearing on behalf of the second respondent disputed the grounds by stating that the reasons are flimsy and the petitioners had already received the entire Award amount and after receiving the Award amount, the present Civil Miscellaneous Appeal is filed and therefore, the Civil Miscellaneous Appeal is an after thought one and no reason has been assigned to condone the long delay of 484 days. Thus, the present civil miscellaneous petition is liable to be dismissed.

4. Considering the arguments, this Court is of the considered opinion that Law of Limitation is substantive. All appeals are to be filed within the prescribed time limit. Condonation of delay is an exception. The power of discretion is to be used judiciously. Mechanical approach for condonation of delay is undoubtedly impermissible. Thus, the Courts are bound to consider the reasons and form an opinion whether the reasons stated for condoning the huge delay are convincing or candid.

5. In the absence of any valid and acceptable reason, long delay in filing the appeal cannot be condoned at all. Such a mechanical approach will lead to a wrong precedent and the Courts cannot dilute the Law of Limitation in a routine manner. Misplaced sympathy cannot be granted to condone the unexplained delay. Uncondonable delay cannot be condoned. Thus, the Courts have to analyse the reasons and its genuinity.

6. With reference to the case on hand, no acceptable reason has been stated. Mere statement that the first petitioner was undergoing treatment is insufficient and even the details of the treatments are not furnished. Thus, the affidavit and the reasons stated are neither candid nor convincing.

7. Under these circumstances, this Court is not inclined to entertain the civil miscellaneous petition to condone the enormous delay of 484 days in filing the Civil Miscellaneous Appeal. Consequently, C.M.P.No.4024 of 2020 stands dismissed and C.M.A.SR.No.20174 of 2020 is rejected at the SR stage itself. However, there shall be no order as to

costs.

17-07-2020

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Svn

To

The Divisional Manager,
United India Insurance Company Ltd.,
D.O.No.13A, Nethaji Road,
Cuddalore-607 001.



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S.M.SUBRAMANIAM, J.

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