

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-06-2020

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.P.No.4539 of 2020
in
C.M.A.SR No.21334 of 2020

1.Shanthi
2.Malathi
3.Deepakraj
4.Rajammal

... Petitioners/Appellants

Vs.

1.R.Perumal

2.United India Insurance Company Ltd.,
PPS Complex,
Omalur Urban Bank Upstairs,
Mettur Main Road,
Omalur,
Omalur Taluk,
Salem District.

... 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 677 days in filing the above appeal.

For Petitioners : Mr.R.Nalliyappan

For Respondents : No Appearance

ORDER

The present miscellaneous petition is filed to condone the delay of 677 days in filing the Civil Miscellaneous Appeal against the judgment and decree dated 06.11.2017 in MCOP No.13 of 2012 on the file of the Motor Accident Claims Tribunal, Rasipuram.

2. The learned counsel appearing on behalf of the petitioners mainly contended that the first petitioner was suffering from 'Dengue Fever' and thereafter there was a delay in getting the certified copy of the judgment and decree and the first petitioner was not able to contact the counsel immediately. Thus, the delay is not willful.

3. Perusal of the affidavit filed in support of the miscellaneous petition reveals that four petitioners have filed the claim petition before the Tribunal and now appeal before this Court. The reasons stated in the affidavit filed in support of this miscellaneous petition says that the first

petitioner Smt.Shanthi, who filed the affidavit, was suffering from 'Dengue Fever' and was unable to contact the counsel immediately.

4. Unsubstantiated reasons or reasons vaguely stated, cannot be a ground to condone an enormous delay in filing the Civil Miscellaneous Appeal. Rule is to file the appeal within the period of limitation.

5. Condonation of delay is an exception. The power of discretion to condone the delay is to be exercised judiciously. The reasons for condoning the huge delay must be based on sound legal principles. Mechanical approach in condonation of delay is impermissible. In the event of adopting routine or mechanical approach, the very sanctity of Law of Limitation is diluted. The intention of the Statute is unambiguous that all appeals are to be filed within the period of limitation prescribed. The power of condonation of delay is the discretion and it is the general principle that the power of discretion is expected to be exercised judiciously and consistently. Thus, huge delay cannot be condoned based on certain flimsy or unsubstantiated reasons.

6. In the present case on hand, even if one petitioner is not well, there are other three petitioners who all were in a position to file an appeal. In other words, four petitioners have filed this miscellaneous petition.

7. This apart, the delay is 677 days, which is enormous. Perusal of the judgment delivered by the Motor Accident Claims Tribunal, the claim petition was rejected on the ground that the claim petition was filed based on certain incorrect facts. However, this Court is not inclined to consider those aspects. The fact remains that the delay has not been explained properly and the reasons stated are neither candid nor convincing.

8. In view of the reasons stated above and also the fact that the petitioner has not established any acceptable reason for the purpose of condoning the delay of 677 days and therefore, this Court is not inclined to condone the delay and consequently, C.M.P.No.4539 of 2020 stands dismissed and C.M.A.SR.No.21334 of 2020 is rejected at the SR stage

itself. However, there shall be no order as to costs.

04-06-2020

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Svn

To

United India Insurance Company Ltd.,
PPS Complex,
Omalur Urban Bank Upstairs,
Mettur Main Road,
Omalur,
Omalur Taluk,
Salem District.



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S.M.SUBRAMANIAM, J.

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