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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02-06-2020

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.P.No.6685 of 2020

in

C.M.A.SR No.75859 of 2019

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Dharmapuri (Divisional Office-II Salem),
Bharathipuram,
Dharmapuri Town and Taluk. ...
Petitioner/Appellant

Vs.

1.Kuppammal
2.Minor Elavarasu
3.Minor Loganathan
(R-2 and R-3 are minors represented by
N.F/Mother Kuppammal (R-1)
4.Salammal
5.Thangavel ...
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 1,726 days in filing the above appeal.
CMA SR:Civil Miscellaneous Appeal against the Judgement & Decree dated 24/06/14 made in MCOP No.443/11 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Dharmapuri.

For Petitioner : Mr.D.Venkatachalam

O R D E R

Heard the learned counsel for the petitioner.

2. The present Miscellaneous Petition is filed under Section 173 (1) of the Motor Vehicles Act, 1988, to condone the delay of 1,726 days in filing the above Civil Miscellaneous Appeal, challenging the judgment and decree dated



24.06.2014 made in MCOP No.443 of 2011 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Dharmapuri.

3. In view of the fact that the delay in filing the appeal is enormous, this Court is curious in understanding the reason for such a huge delay. Paragraph-6 of the affidavit filed in support of this miscellaneous petition states that the decree was passed on 24.06.2014 and the copy application was made on 02.05.2019 and it was delivered on 06.05.2019. It is stated that the judgment was communicated to the Panel Advocate for legal opinion and there was a delay in convening the Appeal Committee. Thus, there was an administrative delay resulted in filing an appeal after a delay of 1,726 days.

4. The mechanical approach or filing of affidavit by merely stating that the delay occurred on account of administrative delay is insufficient. The delay must be explained properly. Unconardonable delay cannot be condoned in a routine manner. The reason must be candid and convincing. In the event of long delay in filing the appeal, the sanctity of Law of Limitation cannot be diluted by the Courts in a routine manner. The Rule is to file an appeal within the period of limitation. Condonation of delay is an exception. Thus, the Courts are bound to exercise the power of discretion in a judicious manner and record reasons for condoning the huge delay based on sound legal principles.

5. Mechanical approach is unadvisable and result in dilution of Law of Limitation and the purpose for which the limitations are prescribed in the Statute. Therefore, the Courts must be cautious in condoning the enormous delay.

6. In the present case, the reason stated in the accompanying affidavit filed in support of this miscellaneous petition reveals that there was an administrative delay and there was a delay in convening the Appeal Committee. Not even the date in which the Appeal Committee was convened has not been stated. The particulars regarding the procedures followed also has not been stated unambiguously. Thus, mere reason that the delay is on account of administrative reasons cannot be accepted. In other words, unsubstantiated delay is to be construed as unconardonable delay and therefore, cannot be condoned. Accordingly, the reason stated by the petitioner is neither candid nor convincing.

7. Perusal of judgment passed in MCOP No.443 of 2011 also reveals that it is a case of fatal death, wherein the Motor Accident Claims Tribunal passed an Award, granting a total compensation of Rs.9,45,000/-. The deceased was



aged about 28 years and was self-employed. Under those circumstances, even on merits, this Court is of the considered opinion that the petitioner has not made out an acceptable ground for interference.

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 1,726 days and therefore, this Court is not inclined to condone the delay and consequently, C.M.P.No.6685 of 2020 stands dismissed and C.M.A.SR.No.7585 of 2019 is rejected at the SR stage itself. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Svn

To

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Dharmapuri (Divisional Office-II Salem),
Bharathipuram,
Dharmapuri Town and Taluk.

C.M.P.No.6685 of 2020
in
CMA SR No.75859 of 2019

VGN II (CO)
KKV/14/07/2020