

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.P.No.6496 of 2020

in

C.M.A.SR.No.14852 of 2020

The Managing Director,
TamilNadu State Transport Corporation Limited,
No.12, Ramakrishna Road,
Salem - 636 007

.. Petitioner

Vs.

1.C.Venugopal

2.Minor V.Manoharan

Rep.by his father C.Venugopal,

Both are residing at,

No.423/A, Annamalai Gounder Road,

Masinaikkanpatty Post,

Valapady, Salem District.

... Respondents

PRAYER: C.M.P.No.6496 of 2020 is filed under Section 173(1) of Motor Vehicles Act, 1988 to condone the delay of 264days in filing the above C.M.A.Sr.No.14852 of 2020 against the judgment and decree dated 15.02.2019 made in M.C.O.P.No.1713 of 2017 on the file of the Motor Accidents Claims Tribunal/Special District Court, Salem.

C.M.A.SR.No.14852 of 2020 is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 15.02.2019 made in M.C.O.P.No.1713 of 2017 on the file of the Motor Accident Claims Tribunal/Special District Court, Salem.

For Petitioner : Mr.D.Raghu

O R D E R

The civil miscellaneous petition is filed to condone the delay of 264 days in filing the civil miscellaneous appeal against the order passed by the Motor Accidents Claims Tribunal in M.C.O.P. No.1713 of 2017 dated 15.02.2019.

2. The learned counsel appearing on behalf of the Petitioner / Transport Corporation mainly contended that the delay occurred on account of the certain administrative procedures.

3. As far as the lis on hand is concerned, there is a delay of 264 days. The only reason set out in the affidavit filed in support of the miscellaneous petition states that the decree was passed on 15.02.2019 and the Petitioner /Transport Corporation has sent the judgment to panel advocate for getting an opinion. After getting the opinion, the same was placed before the Appeal Committee for getting approval. There is a delay in convening the appeal committee and therefore, the appeal is filed after the delay of 264 days.

4. Such flimsy reason cannot be an acceptable one for the purpose of condoning the long delay. The competent authorities are bound to perform their duties and responsibilities by keeping in mind the law of limitation. The legal department of the Corporation Limited is well aware of the period of limitation to file an appeal and therefore, all the official formalities must be completed within a period of limitation and the period is to be filed within the period of limitation. However, the meagre amount of delay can be condoned by taking liberal view.

5. The accident is a fatal one and the legal heirs of the deceased filed claim petition and the Tribunal passed an award. The quantum of compensation awarded by the Tribunal also found to be reasonable and therefore, keeping this appeal at the condone delay stage for longer time is certainly not preferable. The agony of these accident victims also to be considered while keeping the matter pending for unspecified period. The Courts are bound to dispose of these kinds of appeals at the earliest possible time, in order to mitigate the injustice to be caused, in the event of delay in disposal of these appeals, more specifically, in fatal cases.

6. The condone delay petition is filed under Section 173(1) of the Motor Vehicles Act, 1988. The appeal is to be filed within the period of limitation prescribed under Section 173 (1) of the said Act. Accordingly, 90 days time limit is contemplated. The Proviso Clause to Section 173(1) stipulates that the High Court may entertain the appeal after the expiry of the said period of 90 days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time. Thus, there must be sufficient cause for delay and the reasons stated for such an enormous delay in filing the appeal is also to be explained and must be an acceptable one.

7. Law of Limitation as contemplated under Section 173(1) of the Motor Vehicles Act is the law. The condonation of delay is an exception under the proviso clause. Thus, the condonation of delay can never be a mechanical affair and the High Court cannot condone the delay in a routine manner. When the law

provides limitation for preferring an appeal and the proviso clause as contemplates the power of discretion to the Court to condone the delay, then such discretionary powers are to be exercised judiciously and by recording reasons. It is not as if, the High Courts can condone the delay in a routine manner, so as to dilute the law of limitation as contemplated under the said Act. Thus, in all cases, where there is an enormous delay in filing an appeal, the Courts are bound to ascertain the reasons and its genuinity and the acceptability of such reasons. The reasons must be candid and the Courts are bound to record such reasons, while condoning long delay.

8. In all such delay, the reasons must be candid, enabling this Court to exercise the power of discretion under the Proviso Clause to Section 173(1) of the Motor Vehicles Act. In the absence of any such convincing reasons, the Courts would not condone the huge delay in a routine manner, which would defeat the very purpose of law of limitation as contemplated under the statute. Uncondonable delay cannot be condoned.

9. Power of discretion and the exception clauses are to be exercised properly and in order to mitigate certain circumstances arising on account of the certain events or incidents, which must be an acceptable one. Contrarily, certain reasons, which are flimsy and routine, cannot be a ground to condone the huge delay.

10. In the present case, the petitioner has not established any acceptable reason for the purpose of condoning the delay of 264 days and therefore, this Court is not inclined to condone the delay and consequently, C.M.P.No.6496 of 2020 stands dismissed and C.M.A.SR.No.14852 of 2020 is rejected at the SR Stage itself. No costs.

Sd/-

Assistant Registrar

//True copy// सत्यमेव जयते

Sub Assistant Registrar

Maya
To

1.The Special District Court, Salem.
Motor Accidents Claims Tribunal, Salem.

2.The Sub Assistant Registrar,
A.E. Section, High Court, Madras.

+1cc to Mr.D.Raghu, Advocate SR.No.24449

C.M.P.No.6496 of 2020

in

C.M.A.SR.No.14852 of 2020

LN (CO)

<https://hcservices.courts.gov.in/hcservices/>
GMR (11/06/2020)