

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

CMP.Nos.12044 and 12046/2020 in CMA.SR.No.156960/2019

M/s.HDFC Ergo General Insurance Company
Limited, No.528, Anna Salai,
Teynampet, Chennai-600 018. Petitioner in both CMPs.

-vs-

1. Purushothaman
 2. Rajini
 3. Kamaladevi
- Respondents in both CMPs.

CMP.No.12044/2020 filed seeking to condone the delay of 293 days in representing CMA Sr.No.156960/2019; sought to be preferred against the order in E.C.No.123 of 2014, dated 12/08/2019 on the file Commissioner for Employees Compensation, Joint Commissioner of Labour-II, Chennai.

CMP.No.12046/2020 filed seeking to condone the delay of 308 days in paying the deficit court fee of Rs.1,950/0 in CMA Sr.No.156960/2019.

For Petitioner : Mr.M.B.Raghavan

For Respondents : ...

सत्यमेव जयते
C O M M O N O R D E R

The CMP.No.12044/2020 has been filed seeking to condone the delay of 293 days in representing the above CMA Sr.No.156960/2019 whereas the CMP.No.12046/2020 has been filed seeking to condone the delay of 308 days in paying the deficit court fee of Rs.1,950/- in the above CMA Sr.No.156960/2019.

2. Learning Counsel appearing for the petitioner Insurance Company pleaded that when the appeal was filed on 13.12.2019 against the impugned decreetal order dated 12.08.2019 made in E.C.No.123/2014 by the learned Commissioner for Employees

Compensation, Joint Commissioner of Labour-II, Chennai, it was returned on 18.12.2019 for complying with certain defects including the production of deposit receipt as required under Section 173 of the Motor Vehicles Act, 1988 and also for the payment of deficit court fee. The deposit had to be made before the lower court by the Policy Issuing Office and the same is forwarded by the petitioner's Counsel before the lower court to the Regional Office of the petitioner at Chennai. In the said process, there was a delay in obtaining the same. Finally, the deposit receipt was issued by the lower court and the same was forwarded to the Regional Office. Thereafter, the appeal was urgently filed. However to avoid further delay in filing the appeal, they have filed the appeal only with Rs.50/- Court Fee and the remaining court fee could not be organised. Thereafter, the deficit court fee has been paid. However, there was a delay of 293 days in re-presenting the appeal and another huge delay of 308 days in paying the deficit court fee. Hence, the learned Counsel for the petitioner prayed this Court to condone the delay in both the matters so that the appeal can be taken up for hearing.

3. At the outset, this Court has gone through the grounds of appeal in order to satisfy whether this appeal which could be filed under Section 10 of the Employees Compensation Act is having any substantial question of law as per proviso 1 and 2 to Section 30 of the Act since no appeal would lie against any order in the absence of any substantial question of law. In the present case, though the petitioner has filed the appeal raising the following three questions of law, this Court is not even able to appreciate anyone of them as a substantial question of law. They are as follows:

a. Whether the order of the Commissioner awarding compensation holding that the deceased was employed as a driver in the vehicle is not perverse? ;

b. Whether the Commissioner has not erred in treating the deceased as a driver when he was an Engineering student and caused accident while taking a joy ride? ; and

c. Whether the Commissioner has not erred in allowing the claim without adequate opportunity to the appellant to adduce evidence?

A perusal of the same does not show any one of them is a substantial question of law. Therefore, this Court is of the view that no purpose would be served by condoning the delay of 293 days in re-presenting the above CMA Sr.No.156960/2019 and the unexplained delay of 308 days in paying the deficit court fee of Rs.1,950/- in the above CMA Sr.No.156960/2019.

4. In the result, both the CMPs. fail and they are accordingly dismissed. Consequently, the above CMA Sr.No.156960/2019 is rejected.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

tsi

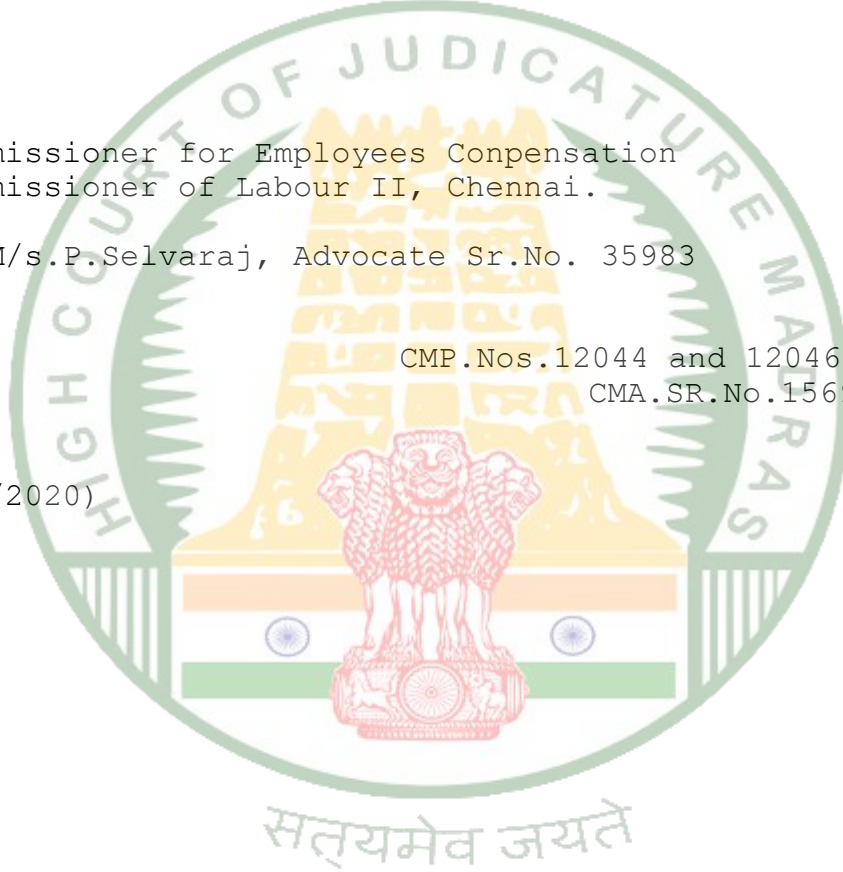
To

1.The Commissioner for Employees Compensation
Joint Commissioner of Labour II, Chennai.

+1 cc to M/s.P.Selvaraj, Advocate Sr.No. 35983

CMP.Nos.12044 and 12046/2020 in
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GJ(CO)
RMP(16/12/2020)



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