



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.P. No. 17886 of 2019

in

C.M.A. SR. No. 102930 of 2019

Shyam

.. Petitioner

Vs.

1. Ramanjaneya

2. The Branch Manager

United India Insurance Company Ltd.

No. 280, Ooty Main Road

Mettupalayam - 641 301.

.. Respondents

(No relief sought against the 1st Respondent
hence notice may be dispensed with)

PRAYER: C.M.P. No. 17886 of 2019 is filed under Section 173(1) of Motor Vehicles Act, 1988 to condone the delay of 1360 days in filing the above appeal.

C.M.A.SR.No.102930 of 2019 is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P. No.588 of 2012 dated 04.08.2015 on the file of the Motor Accident Claims Tribunal, Principal District Court, Krishnagiri.

For Petitioner : Mr. C.Prabakaran

For Respondents : R1- dispensed with
R2-No appearance

O R D E R

The civil miscellaneous petition is filed to condone the delay of 1360 days in filing the civil miscellaneous appeal against the order passed by the Motor Accidents Claims Tribunal in M.C.O.P. No. 588 of 2012 dated 04.08.2015.

2. 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.

3. 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.

4. The Civil Miscellaneous Petition is filed to condone the delay of 1360 days in filing the appeal challenging the order dated 04.08.2015 passed in M.C.O.P. No. 588 of 2012. Only reason stated in the affidavit filed in support of the civil miscellaneous petition is that the petitioner/ claimant has chosen to file an appeal after withdrawing the award amount from the Motor Accident Claims Tribunal. Such a reason is unacceptable, in view of the fact that the withdrawal of the award amount cannot be cited as a reason for the purpose of filing an appeal, which is otherwise a right of a person. In the present case, if the petitioner is not satisfied with the award passed by the Tribunal then he is expected to take a decision to file an appeal within a period of limitation. In the event of meager delay, the court can adopt a liberal approach and condone the delay by exercising the power of discretion. However, in respect of long delay the court cannot condone the same in a routine manner, reasons if any must be genuine and to be substantiated. In the present case the reasons stated by the petitioner is not substantiated and further, unacceptable.

5. For the above reasons, there is a delay of 1360 days in filing the appeal is not acceptable in view of the fact that the Court fee is also not enormous and further, the free Legal Aid Services are available to such litigants, who all are unable to mobilize the funds. Thus, all such litigants are expected to approach the Legal Services Authority for the purpose of filing an appeal, if they are of the opinion that their grievances are not redressed. Contrarily, they cannot file an appeal after a huge delay of 286 days and state that they could not able to mobilize the money. In the event of accepting such reasons, this Court is of the considered opinion that all such appeals filed with huge delay are to be



condoned as a matter of routine and such practice is impermissible with reference to the provisions under Section 173(1) of the Motor Vehicles Act.

6. 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. Unconardonable delay cannot be condoned.

7. In the present case, the petitioner has not established any acceptable reason for the purpose of condoning the enormous delay of 1360 days and therefore, this Court is not inclined to condone the delay and consequently, C.M.P. No. 17886 of 2019 stands dismissed and C.M.A.SR.No.102930 of 2019 is rejected at the SR Stage itself. No costs.

Sd/-
Assistant Registrar(CS-V)

//True copy//

Sub Assistant Registrar

may a

To

1.The Principal District Judge
Motor Accidents Claims Tribunal
Krishnagiri.

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

+1cc to Mr.C.Prabakaran, Advocate SR.No.21391

+1cc to Mr.T.Ravichandran, Advocate SR.No.21487

C.M.P.No.17886 of 2019
in
C.M.A.SR.No.102930 of 2019

RR(CO)
GMY(13/07/2020)