



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2020

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THE HONOURABLE **MR. JUSTICE S. S. SUNDAR**

C.M.P. (MD)No.1901 of 2020

in

C.M.A. (MD)No.SR9707 of 2020

1.Sivasankari
2.Minor Gashviram Suba Barathi
3.Satheeshkumar : Petitioners / Appellants
(in both cases)

(Minor petitioner/appellant represented by Mother and
next friend, Sivasankari, 1st appllant)

vs.

1.J.Elamaran
2.M/s.National Insurance Company Limited,
Tiruchirapalli. : Respondents in both cases

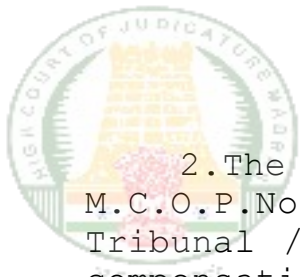
Prayer in C.M.P.(MD)No.1901 of 2020: Civil Miscellaneous Petition
filed under Section 173(1) of the Motor Vehicles Act, to condone
the delay of 2481 days in filing the above appeal.

Prayer in C.M.A.(MD)No.SR9707 of 2020: Civil Miscellaneous Appeal
sought to be filed under Section 173 of the Motor Vehicles Act, to
modify the award passed in M.C.O.P.No.59 of 2007 on the file of
Motor Accidents claims Tribunal / Principal Subordinate Court,
Tiruchirappalli, dated 16.10.2012.

For Petitioners / Appellants : Mr.N.Sudhagar Nagaraj
For R2 : Mr.J.S.Murali
(in both cases)

ORDER

This petition is filed to condone the delay of 2481 days in
filing the above appeal as against the award passed in
M.C.O.P.No.59 of 2007 on the file of Motor Accidents claims
Tribunal / Principal Subordinate Court, Tiruchirappalli, dated
16.10.2012.



2.The petitioners are claimants, who filed a claim petition in M.C.O.P.No.59 of 2007 on the file of the Motor Accidents claims Tribunal / Principal Subordinate Court, Tiruchirappalli, claiming compensation for the accident and death of husband of first petitioner. It is to be noted that the claimants have claimed a sum of Rs.20,00,000/- as compensation. However, the Tribunal has awarded a sum of Rs.22,35,000/- as compensation. The award of Tribunal is dated 16.10.2012 and the appeal has been presented with the delay of 2481 days, which is more than seven years.

3.The petitioners are active in prosecuting the matter till they received the compensation. It is also admitted that the compensation awarded by the Tribunal in 2012 was settled in full and there is no stay sofar. The only reason given in this petition is that there was no one to help the petitioners' family and that they could not mobilise the funds to file the appeal in time before this Court.

4.This Court noted that the award was passed in 2012 and substantial amount has been awarded in favour of the claimants/petitioners. In the affidavit filed in support of this petition, the petitioners have not given sufficient reason. The learned Counsel for the petitioners submitted that the appeal filed by the Insurance Company in 2013 is pending in C.M.A.(MD) No.SR10372 of 2013 and that therefore, no prejudice will be caused to the respondents. As pointed out earlier the petitioners were given substantial amount of Rs.22,35,000/- in excessive of the amount claimed by them by way compensation by the Tribunal. Therefore, it is significant to note that the appellants did not choose to file appeal. However, with the delay of seven years, they filed an appeal without an explanation for the huge delay of more than seven years.

5.This Court does not find any *bona fide* in this petition. Having regard to the attending circumstances, this Court is of the view that the petitioners are not entitled to any indulgence. As a result, this Civil Miscellaneous Petition is dismissed. Accordingly, the Civil Miscellaneous Appeal is rejected at SR stage. No costs.

Sd/-

Deputy Registrar(LA & MC)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



C.M.P.(MD)No.1901 of 2020
in C.M.A.(MD)No.SR9707 of 2020

To
The Principal Subordinate Judge
(The Motor Accidents claims Tribunal), Tiruchirappalli.

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+1 CC to M/s.N. SUDHAGAR NAGARAJ, Advocate (SR-14158[F] dated
17/08/2020)

C.M.P. (MD)No.1901 of 2020
in
C.M.A. (MD)No.SR9707 of 2020
14.08.2020

db (CO)
TR(02.09.2020) 3P 3C