



WEB COPY

C.M.P.(MD)No.10575 of 2019

in

C.M.A.(MD)No.SR77121 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2020

CORAM

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

C.M.P. (MD)No.10575 of 2019

in

C.M.A. (MD)No.SR77121 of 2019

and

C.M.A. (MD)No.SR77121 of 2019

Madasamy : Petitioner / Appellant
(in both cases)

vs.

1.Minor Parjanskethia
represented through her Father and Natuaral Gurdian
Barjanasam

2.Murugan

3.The Branch Manager,
ICICI Lombard Insurance Company Private Limited,
Tirunelveli. :Respondents/Respondents in both cases

Prayer in C.M.P.(MD)No.10575 of 2019: Civil Miscellaneous Petition filed under Section 173(1) of the Motor Vehicles Act, to condone the delay of 3246 days in preferring the above appeal.

Prayer in C.M.A.(MD)No.SR77121 of 2019: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the judgment and decree, dated 17.09.2010 in M.C.O.P.No.180 of 2009 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Tirunelveli.

For Petitioner / Appellant : Mr.G.Aravinthan
For R3 :Mr.P.Pethu Rajesh
For R1 and R2 :No appearance

ORDER

This petition is filed to condone the delay of 3246 days in preferring the above appeal as against the judgment and decree, dated 17.09.2010 in M.C.O.P.No.180 of 2009 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Tirunelveli.

2.The petitioner is the first respondent in the Claim Petition before the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Tirunelveli. It is the case of the petitioner that he sold the Load Auto, which was involved in the accident, to the second respondent for a valid consideration and that the the second respondent has become the owner of the vehicle at the time of accident, ie., on 12.03.2009. Since the accident took place after



the transfer of ownership, the petitioner states that he has good chance of success in the appeal.

3.The learned Counsel for the petitioner admitted that the Tribunal has awarded the compensation and made both the petitioner and the second respondent liable, jointly and severally even though the accident was caused by the second respondent. The appeal is preferred by the petitioner with a long delay of more than eight years. In the affidavit filed in support of the petition, the petitioner has not given any reasons for the inordinate delay. There is not even a fair attempt made by the petitioner to explain the delay, why the appeal could not be filed within a reasonable time.

4.It is noted that the petitioner did not inform the RTO before or after making the transfer. It is also to be noted that the liability of petitioner cannot be disputed and hence, the petitioner may at best, proceed against the second respondent, who is the owner of the vehicle as on the date of accident.

5.The learned Counsel for the petitioner submitted that the second respondent has deposited the entire compensation and that therefore, the delay can be condoned. There is no logic in the submission of the learned Counsel for the petitioner. If the second respondent is willing to pay the compensation, it is well and good and the petitioner can take advantage of that. However, that is not a reason to condone the inordinate delay of more than eight years. This Court is unable to appreciate the contentions of the petitioner for the delay.

6.As a result, this Civil Miscellaneous Petition is dismissed. Accordingly, the Civil Miscellaneous Appeal is rejected at SR stage. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

The Chief Judicial Magistrate,
(Motor Accidents Claims Tribunal),
Tirunelveli.

+1CC TO Mr.P.Pethu Rajesh, Advocate Sr.No.6533

C.M.P. (MD)No.10575 of 2019 in

C.M.A. (MD)No.SR77121 of 2019

21.09.2020