



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

C.M.P(MD)No.843 of 2021
in
C.M.A(MD).SR.No.1064 of 2021

Banumathi (died)

1.Selvaraj

2.Suresh

... Petitioners/Appellants

Vs.

1.Narayanamoorthi

2.The Branch Manager

Oriental Insurance Company Limited

Gopalrao Library Building 1st Floor

Town Hall Road

Kumbakonam, Thanjavur District

....Respondents/Respondents

Prayer in C.M.P(MD).No.843 of 2021 : This petition is filed under Section 173(1) of the Motor Vehicles Act, 1988, to condone the delay of 746 days in filing the civil miscellaneous appeal in C.M.A(MD).SR.No.1064 of 2021 against the Judgment and Decree made in M.C.O.P.No.196 of 2013 on the file of the Motor Accident Claims Tribunal (Sub Judge), Pattukkottai, Thanjavur District, dated 18.08.2017.

Prayer in C.M.A(MD).SR.No.1064 of 2021: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to allow the appeal by modifying the Judgment and Decree order made in M.C.O.P.No.196 of 2013 on the file of the Motor Accident Claims Tribunal (Sub Judge), Pattukkottai, Thanjavur District, dated 18.08.2017 by granting further sum of Rs.5,00,000/- over and above the compensation amount already awarded by the Tribunal.

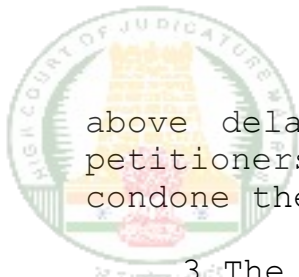
For Petitioners : Mr.S.Deenadhayalan

For R2 : Mr.E.Chandrasekaran

ORDER

This Civil Miscellaneous Petition has been filed to condone the delay of 746 days in filing the above appeal.

2.As regards the delay, the learned counsel for the petitioners would state that due to sudden demise of the first petitioner's wife and son, he was not in a position to contact the lower court counsel. Thereafter, the petitioner contacted his lower court counsel and as per his advice, now only the petitioner preferred the present appeal with a delay of 746 days in filing the appeal. The



above delay occurred which is neither wilful nor wanton and the petitioners have good grounds on merits. Thus, he would pray to condone the delay.

3.The learned counsel for the second respondent would submit that as per order of the Tribunal, the entire award has been deposited and it has also been withdrawn by the claimants and after withdrawal, the present petition has been filed to condone the delay of 746 days in filing the above civil miscellaneous appeal for enhancement. The appellant would have filed an appeal immediately after passing of the award by the Tribunal, if he is not satisfied with the award. After receiving the entire award, the appellant has come forward with the present petition for enhancement with a delay of 746 days in filing the above appeal. The delay is not minimal. The reasons stated are not acceptable reasons to condone such huge delay. By applying the principle laid down in the Judgment reported in **Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy & others**, [2013 (5) CTC 547 (SC) : 2013 (5) LW 20], I am not inclined to condone the delay.

4.Accordingly, this petition is dismissed. In view of the order passed in CMP(MD)No.843 of 2021, the connected C.M.A.(MD)SR.No.1064 of 2021 is rejected at the SR stage itself. No costs.

Sd/-

Assistant Registrar (Cs-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MSA

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Motor Accident Claims Tribunal (Sub Judge),
Pattukkottai, Thanjavur District.

+1 CC to Mr.E.CHANDRASEKARAN, Advocate (SR-6930[F] dated 24/02/2021)

Order made in
C.M.P(MD)No.843 of 2021 in
C.M.A(MD).SR.No.1064 of 2021
24.02.2021

SE (CO)

SRS (08/03/2021) 2P : 3C

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