



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CMP(MD)No.7117 of 2020

in

CMA(MD)SR.No.37451 of 2020

WEB COPY

Jayapal

... Petitioner/Appellant
vs.

1.Mahadevan

2.Manikandan

3.Sriram General Insurance Co.,Ltd.,

Represented by its Branch Manager

Head Office at E-8, RIICO Industrial Area

Sitapura, Jaipur

Rajasthan

4.Sriram General Insurance Co.,Ltd.,

Represented by its Branch Manager

Office at 2nd Floor

25B2/14, SRC Complex

North Block, 25B, SN High Road

Tirunelveli

... Respondents/Respondents

Prayer in CMP(MD)No.7117 of 2020: Petition filed under Section 5 of the Limitation Act, to condone the delay of 1181 days in filing the appeal in CMA.SR.No.37451/2020 against the order dated 17.9.2020 passed in M.C.O.P.No.50/2015, on the file of the Motor Accidents claim Tribunal (Special Court), Nagercoil, Kanyakumari District.

Prayer in CMA(MD)SR.No.37451 of 2020: Appeal filed under Section 173 of the Motor Vehicles Act 1988, to set aside the order dated 17.09.2020 passed in M.C.O.P.No.50 of 2015 on the file of the Motor Accident Claim Tribunal (Special Court), Nagercoil, Kanyakumari District and allow the above appeal.

For Petitioner : Mr.K.Rajeshwaran

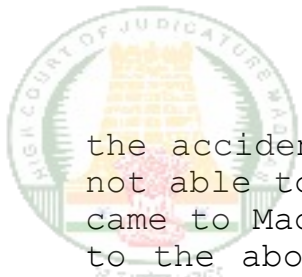
For R3 and R4 : Mr.V.Sakthivel

ORDER

The present petition has been filed to condone the delay of 1181 days in filing the appeal.

2.As regards the delay, the learned counsel for the petitioner would state that the learned Special Judge, Motor Accident Claim Tribunal Nagercoil, Kanyakumari District has passed an award in M.C.O.P.No.50 of 2015 on 17.09.2016 and the petitioner filed copy application on 04.10.2019 and the same was made ready on 15.10.2019.

<https://hcservices.apn.gov.in/hcservices/> has to be filed on or before 12.12.2016. But due to



the accident and due to the Covid-19 pandemic, the petitioner could not able to mobilize the fund in time, after mobilizing the fund, he came to Madurai and handed over the case papers to the Advocate. Due to the above reason, there was a delay of 1181 days in filing the appeal and the above delay occurred which is neither wilful nor wanton. Thus, he would pray to condone the delay.

3. Heard the learned counsel for the petitioner and also perused the materials available on record.

4. The petitioner has stated in a routine manner that the award was passed in M.C.O.P.No.50 of 2015 on 17.09.2016 and he filed copy application on 04.10.2019 and the same was made ready on 15.10.2019. But due to the accident and due to the Covid-19 pandemic, the petitioner could not able to mobilize the fund in time, after mobilizing the fund, he came to Madurai and handed over the case papers to the Advocate. Due to the above reason, there was a delay of 1181 days in filing. Gross negligence on the part of the counsel or the litigant has to be taken note of while considering the delay. The award granted by the Tribunal has also been satisfied by the respondents and now without any valid reason has come forward to condone the delay of 1181 days in filing the above Civil Miscellaneous Appeal. The delay is not minimal and it is a very long delay. The reasons stated for the delay are not acceptable reasons. Therefore, this Court is not inclined to condone the delay of 1181 days in filing the appeal. Relying on the principles enumerated 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. Accordingly, this Civil Miscellaneous Petition is dismissed. In view of the order passed in CMP(MD)No.7117 of 2020, C.M.A.(MD)SR.No.37451 of 2020 is rejected at the SR stage itself. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

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Sub Assistant Registrar(CS)

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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.



CMP(MD)No.7117 of 2020 in
CMA(MD)SR.No.37451 of 2020

To
The Special Judge
Motor Accident Claim Tribunal (Special Court),
Nagercoil, Kanyakumari District

+1CC TO MR.V.SAKTHIVEL,ADVOCATE, SR NO 12076
+1CC TO MR.K.RAJESHWARAN, ADVOCATE, SR NO.12327

CMP (MD) No. 7117 of 2020
in
CMA (MD) SR.No.37451 of 2020
16.03.2021

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