



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Civil Appellate Jurisdiction)

Thursday, the Twenty Second day of July Two Thousand and Twenty One

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PRESENT

The Hon'ble Mr.Justice K.MURALI SHANKAR

CMP (MD) No.5656 of 2020

in

CMA (MD) SR NO.40886 of 2020

A.BALAGANAPATHY

... PETITIONER/APPELLANT

Vs

1 G.VENKATESAN

2 UNITED INDIA INSURANCE COMPANY LTD,
BRANCH OFFICE, DOOR NO.5,
GOMATHIYAPURAM NEW 1ST STREET,
BALAJI COMPLEX, SANKARANKOVIL.

... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 534 days in filing the above Civil Miscellaneous Appeal in CMA(MD)SR.No.40886 of 2020.

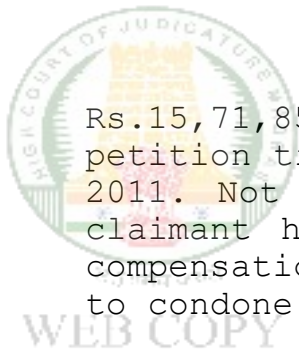
Prayer in CMA(MD)SR.No.40886 of 2020:

Civil Miscellaneous Appeal filed may be pleased to allow this appeal, enhance the award amount in M.C.O.P.No.1175 of 2011 on the file of the Motor Accident Claims Tribunal (3rd Additional District Judge), Tirunelveli, dated 26.06.2018.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.T.SELVAKUMARAN, Advocate for the petitioner and of Mr.A.SHAHJAHAN, Advocate on behalf of the 2nd respondent, the Court made the following order:-

This above petition has been filed to condone the delay of 534 days in filing the above appeal in CMA(MD).SR.No.40886 of 2020.

2.The petitioner/appellant is the claimant in M.C.O.P.No.1175 of 2011 on the file of Motor Accidents Claims Tribunal / III Additional District Court, Thirunelveli. After conducting joint trial in M.C.O.P.Nos.1174 and 1175 of 2011, the Tribunal has passed a common Award dated 26.06.2018 by granting total compensation of



Rs.15,71,850/- with interest at 7.5% per annum from the date of petition till the date of deposit to the claimant in MCOP.No.1175 of 2011. Not satisfied with the quantum of compensation awarded, the claimant has preferred the present appeal claiming enhancement of compensation awarded in MCOP.No.1175 of 2011 along with the petition to condone the delay of 534 days in filing the appeal.

3.The petitioner's contention is that the trial Court pronounced the Judgment on 26.06.2018, that the copy application was made on 14.11.2018 and copy was made ready on 27.11.2018, that though the petitioner ought to have filed the appeal on or before 24.04.2018, he filed the present appeal on 28.10.2020, that the petitioner was not able to mobilize the funds immediately, that after receiving the award amount has come forward with the present appeal and the above petition, that the delay is neither wilful nor wanton and that the petitioner will be put to irreparable loss and hardship if the delay is not condoned.

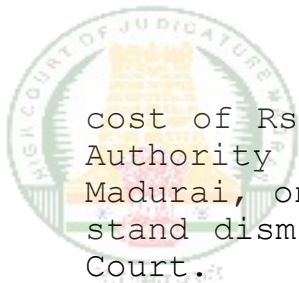
4.The second respondent/insurer has filed the counter statement raising objections and further stated that the petitioner had not mentioned any valid reason for filing of the appeal, that the petitioner has not shown reason for each and every days delay, that the Tribunal has already awarded just and fair compensation of Rs.15,71,850/- for simple injuries, that the present appeal has been filed for enhancement with greediness, that the second respondent has not preferred any appeal before this Court and also deposited the entire claim amount along with interest and the same was received by the petitioner. Subsequently, the petitioner's counsel has filed a memo stating that the claimant has received the amount from the Bank only in the month of September 2020 and the appeal was filed in the month of October 2020.

5.The learned counsel appearing for petitioner would submit that immediately after receiving the award amount, they have preferred the appeal and that the delay is neither wilful nor wanton.

6.As rightly pointed out by the learned counsel for the petitioner, the second respondent has not raised any serious objection.

7.On considering the facts and circumstances and also the reasons assigned for the delay, this Court is inclined to condone the delay, but at the same time, considering the length of the delay, this Court is of the view that the petitioner must be mulcted with the cost. Moreover, condoning the delay in filing the appeal cannot be construed as if this Court has conferred right on the petitioner / claimant to claim interest and the same is left open to be considered at the time of hearing of the appeal for enhancement.

<https://hcservices.8.11.gov.in/hcservices/> result, this petition will be allowed, on payment of



cost of Rs.2,000/- (Rupees Two Thousand only) to the Legal Services Authority attached to the Madurai Bench of Madras High Court, Madurai, on or before 09.08.2021, failing which, this petition shall stand dismissed automatically without any further reference to this Court.

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9.Registry is directed to post the matter on 10.08.2021, for reporting compliance.

sd/-
22/07/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE III ADDITIONAL DISTRICT JUDGE,
MOTOR ACCIDENT CLAIMS TRIBUNAL,
TIRUNELVELI.

COPY TO:

LEGAL SERVICES AUTHORITY,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to Mr.A.SHAHJAHAN, Advocate(SR.No.4798[I] dated 23/07/2021)

ORDER
IN
CMP(MD) No.5656 of 2020 IN
CMA(MD) SR No.40886 of 2020
Date :22/07/2021

TRP
SRS/JC/SAR-I/28.07.2021/3P/4C