



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CMP(MD)No.6566 of 2019

and

CMA(MD)SR.No.51598 of 2019

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- 1)Veeramadevi
- 2)Minor Dharani
- 3)Minor Sanja Sabarinath
- 4)Minor Kavia Malli
- 5)Subramani
- 6)Anthi Malli

...Appellants/Petitioners

vs.

- 1)K.Manikandan
- 2)The Branch Manager,
ICICI Lombard General Insurance Co. Ltd.,
No.7, A.A. Road, Gnanaolivupuram,
Madurai-10.

...Respondents/Respondents

Prayer in CMP(MD) No.6566/2019: CMP(MD)No.6566 of 2019 filed under Section 173(1) of the Motor Vehicles Act, to condone the delay of 2118 days in filing the main Civil Miscellaneous Appeal before this Court against the judgment in M.C.O.P.No.1121 of 2009 dated 10.06.2013 on the file of V Additional District Judge, Madurai.

Prayer in CMP(MD)SR No.51598/2019: CMA(MD)SR.No.51598 of 2019 filed under Section 173 of the Motor Vehicles Act, against the judgment and decree of the learned Motor Accident Claims Tribunal, Madurai (V Additional District Judge, Madurai) in M.C.O.P.No.1121 of 2009 dated 10.06.2013.

For Petitioners : Ms.P.Yasmin Begum
For R2 : Mr.P.Pethu Rajesh

ORDER

This petition has been filed to condone the delay of 2118 days in filing the above appeal.

2.In an accident which occurred on 21.09.2008, husband of the 1st petitioner, father of the petitioners 2 to 4 and son of the petitioners 5 and 6 died. The legal representatives filed a claim petition claiming compensation for the death of the deceased and the Tribunal has awarded compensation of Rs.6,50,000/- with 7.5% interest per annum from the date of petition till the date of realisation. Aggrieved by the liability fixed on the owner of the vehicle to pay the compensation, the claimants have filed the above



appeal with the delay of 2118 days. The reason stated for the above delay is that the 1st petitioner/wife of the deceased was taking treatment for her impairing health condition in a private clinic at Dindigul and therefore, she could not contact the advocate and file the above appeal in time.

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3. Heard the learned counsel for the petitioners and the 2nd respondent.

4. Perusal of record shows that though the counsel for the claimants contended before the Tribunal that the deceased was travelling in the offending Lorry as a Cleaner, the Tribunal found from the evidence of PW1-wife of the deceased, wherein, she never stated that her husband was working as Cleaner of the Lorry and she had stated that the deceased was able to give work for more than 10 people and he was a person working in the capacity of Supervisor and even in Ex.P1-FIR lodged by one of the injured passengers, it is not stated that the deceased was a Cleaner, and therefore, the Tribunal held that the deceased travelled in the Lorry as unauthorised person and not as Cleaner, Loadman or Coolie, as such, he is not covered under the insurance policy and accordingly directed the owner of the Lorry to pay compensation to the claimants, where I do not find any infirmity.

5. No sufficient cause has been shown for the inordinate and huge delay of 2118 in filing the present appeal. The claimants have merely stated that the 1st petitioner/wife of the deceased was taking treatment for her impairing health condition in a private clinic at Dindigul and therefore, she could not contact the advocate and file the above appeal in time. The reason has been stated in a very routine manner and no details as to the period of treatment and when the 1st petitioner recovered from the illness have been stated. The petitioners have to explain each and every day delay. The reason stated by the petitioners for condonation of delay is not an acceptable reason and applying the principles in **Esha Bhattarjee vs. Managing Committee of Raghunathpur Nafar Academy and others [2013 (5) CTC 547 (SC)]**, I find no reason to condone the delay in filing the present appeal.

6. Accordingly, CMP(MD)No.6566 of 2019 is dismissed. Consequently, CMA(MD)SR.No.51598 of 2019 is rejected.

Sd/-

Assistant Registrar

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/ /2021

Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



To

The Vth Additional District Judge,
Motor Accident Claims Tribunal,
Madurai.

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+1 CC to Mr.P.PETHU RAJESH, Advocate (SR-10271[F] dated 11/03/2021)

ORDER MADE IN
CMP(MD)No.6566 of 2019 and
CMA(MD)SR.No.51598 of 2019
DATED : 10.03.2021

NA(CO)

SRS (22/03/2021) 3P : 3C