



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2021

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU
C.M.P(MD)No.6831 of 2020
in C.M.A(MD).SR.No.50487 of 2020

The Tamil Nadu State Transport Corporation Madurai Division,
Tirunelveli.

Through its
The Managing Director, ... Petitioner/Appellant

Vs.

1. Irulandi

2. RajaRespondents/Respondents

Prayer in C.M.P(MD).No.6831 of 2020: This petition is filed under Section 173(1) of Motor Vehicle Act, to condone the delay of 1665 days in filing the above Civil Miscellaneous Appeal against the order dated 01.04.2015 passed in M.C.O.P.No.89 of 2012 on the file of the Motor Accident Claims Tribunal (Subordinate Court), Sankarankovil.

Prayer in C.M.A(MD).SR.No.50487 of 2020: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, pleaded to allow this appeal, set aside the award and decree made in MCOP.No.89 of 2012 dated 01.04.2015 on the file of the Motor Accident Claims Tribunal/Subordinate Court, Sankarankovil.

For Petitioner : Mr.P.Prabhakaran
For Respondents : Mr.R.J.Karthick

ORDER

This Civil Miscellaneous Petition has been filed to condone the delay of 1665 days in preferring the above appeal.

2. Learned counsel for the petitioner would submit that the Tribunal passed the award on 01.04.2015 and after receiving a certified copy of the order from the lower Court on 26.05.2015, the petitioner obtained legal opinion from the Transport counsel on the first week of June 2015. Thereafter, the case bundle was mingled with other case bundles and also due to pandemic of Corona, there occurred a delay of 1665 days in filing the above



appeal. Hence, the delay is neither wilful nor wanton and would pray to condone the delay of 1665 days in filing the above appeal.

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

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4. In **State of Bihar vs. Deo Kumar Singh (SLP (Civil) No.13348/2019 dated 05.05.2019**, the appeal was filed with the delay of 728 days stating that the delay occurred in obtaining all the sanctions from the respective departments and also in receiving the affidavit and vakalathnama from the concerned department. The Hon'ble Supreme Court in the said case, has held that a clear signal has to sent to the Government Authorities that they cannot approach the Court as an when they please on account of gross incompetence of their officers and that too without taking any action against the concerned officers. Ultimately, in the said case, the Apex Court while declining to condone the delay of 728 days in filing the appeal, imposed the cost of Rs.20,000/- to be recovered from the officers responsible for that delay and be deposited to the Mediation Centre of the Supreme Court within four weeks.

5. In the present case also, the delay is stated to have been occurred for want of legal opinion from the Transport counsel and thereafter, the case bundle was mingled with other bundles and hence, the petitioner could not able to file the appeal in time. It is also stated that due to situation created on account of Corona pandemic, the appeal papers were handed over to the present learned counsel on the record only during the fourth week of November 2020. In view of the above judgment of the Apex Court, such kind of reasons cannot be termed as sufficient reasons to condone the delay. Therefore, this Court is not inclined to condone such a huge delay of 1665 days in filing the appeal.

6. Accordingly, this petition is dismissed. In view of the order passed in CMP(MD)No.6831 of 2020, the connected C.M.A.(MD) SR.No.50487 of 2020 is rejected at the SR stage itself. No costs.

Sd/-

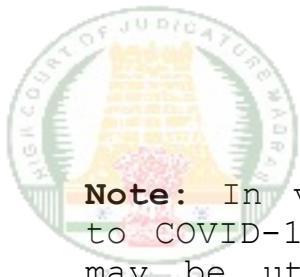
Assistant Registrar(Writs)

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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.

To

1. Motor Accident Claims Tribunal/Subordinate Court,
Sankarankovil.

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-3835[F] dated 08/02/2021

C.M.P(MD)No.6831 of 2020
in C.M.A(MD).SR.No.50487 of 2020
08.02.2021

ES (CO)

TR(16.02.2021) 3P 3C