



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2021

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.P(MD)No.9746 of 2018

in

C.M.A(MD).SR.No.38853 of 2018

General Manager
National Insurance Co.,Ltd.,
Divisional Office
Jerome Building 1st Floor
Kottai Station Road
Tiruchirapalli District

... Petitioner/Appellant

Vs.

1.Kanthan
2.Pottiammal
3.Sudhakar

....Respondents/Respondents

Prayer in C.M.P(MD).No.9746 of 2018 :

This petition is filed under Section 173(1) of the Motor Vehicles Act, 1988, to condone the delay of 428 days in filing the above appeal.

Prayer in C.M.A(MD).SR.No.38853 of 2018:

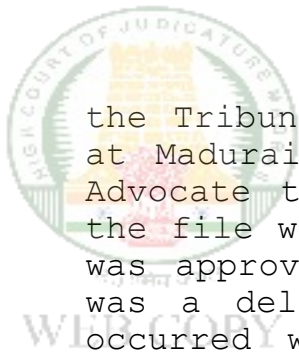
This Civil Miscellaneous Appeal is sought to be filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and Decree passed by the Motor Accident Claims Tribunal Cum Special District Judge (MCOP) Tiruchirappalli, made in M.C.O.P.No.4883 of 2013, dated 15.02.2017 and allow this appeal with costs.

For Petitioner: Mr.R.Rajamani
For R1 : Mr.N.Sudhagar Nagaraj

ORDER

This Civil Miscellaneous Petition has been filed to condone the delay of 428 days in filing the above appeal.

2.As regards the delay, the learned counsel for the petitioner would state that after receiving the order copy, it was served to the Divisional Officer, Tiruchirappalli. The lower court advocate has given opinion to prefer an appeal against the order passed by



the Tribunal. Hence, the file was forwarded to our Regional Office at Madurai and thereafter, the file was sent to High Court Panel Advocate to get second opinion for preferring appeal. After that, the file was placed before the appeal committee for approval and it was approved for preparing appeal. Due to the above reason, there was a delay of 428 days in filing the appeal. The above delay occurred which is neither wilful nor wanton and the petitioner Insurance Company has good grounds on merits. Thus, he would pray to condone the delay.

3.In **State of Bihar vs. Deo Kumar Singh (SLP(Civil) No.13348/2019 dated 09.05.2019**, 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 and 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.

4.In the present case also, the delay is stated to have been occurred due to administrative reason for filing the appeal. 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 the delay of 428 days in filing the appeal.

5.Accordingly, CMP(MD)No.9746 of 2018 is dismissed. No costs. Consequently, CMA(MD)SR.No.38853 of 2018 is rejected.

Sd/-

Assistant Registrar

// 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.

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



To

1. The Motor Accident Claims Tribunal
Cum Special District Judge (MCOP),
Tiruchirappalli,

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.N.SUDHAGAR NAGARAJ, Advocate (SR-6490[F] dated 22/02/2021)

Order made in
C.M.P(MD)No.9746 of 2018 in
C.M.A(MD) .SR.No.38853 of 2018
19.02.2021

SV2 (CO)

SRS (04/03/2021) 3P : 4C