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CMP(MD)



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Reserved on : 25.08.2022

Delivered on : 15.09.2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CMP(MD) No.4632 of 2020

IN

CMA(MD)SR.No.15873 of 2020

1 M/S.NEW GRAND HOTEL
REP.BY ITS PROPRIETOR,
H.BASHEER

2 THE MANAGER,
M/S.NEW GRAND HOTEL,
NO.310,GST ROAD,
CHROMPET, CHENNAI-44.

... PETITIONERS/APPELLANTS

Vs

SHENBAGAM

... RESPONDENT/RESPONDENT

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 1598 days filing the above first appeal under C.M.A.SR.No.15873 of 2020.

PRAYER IN CMA(MD)SR.No.15873 of 2020:

Pleased to set aside the Award dated 28.08.2015 made in W.C.No.63 of 2014 on the file of the Deputy Commissioner Labour, Tirunelveli, Tirunelveli District and allow the Appeal.

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 M/S.VELIMUTHU, Advocate for the petitioners and of Mr.S.SARAVANAN, Advocate on behalf of the Respondent, the court made the following order:-

This petition has been filed condone the delay of 1598 days in filing the first appeal.

2. Brief substance of the petition is as follows:-

2.1. The petitioner filed an appeal against the award passed in E.C.No.63 of 2014, on the file of the Deputy Commissioner of Labour,

<https://www.mhc.tn.gov.in/judis>



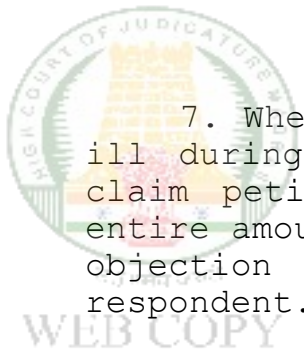
Tirunelveli, dated 28.08.2015. The Court was pleased to dismiss the O.P. on 28.08.2019. Since the post of Deputy Commissioner was vacant, they informed that the future hearing date will be informed later. The petitioner was not doing well and he underwent treatment in Billroth Hospital at Chennai. The claim of the respondent is a bogus one and during the first week of February-2020, the petitioner was called upon by the Revenue Authorities, stating that a proceeding against the petitioner in respect of the award passed by the Deputy Commissioner of Labour, Kovilpatti, is pending. After verification, an exparte award was passed on 28.08.2015. No notice was sent to the petitioners by the Deputy Commissioner of Labour, especially when it was informed that further communication will be informed to the appellants. On 19.02.2020, the petitioner was served with a notice by the Tahsildar, Pallavaram, under the Revenue Recovery Act, only after, the Advocate informed the petitioner, the petitioner came to know that already a copy was received by the Ex-Manager of the petitioner. The petitioners have to receive the back bundle from the previous counsel to file the appeal and hence, there was a delay of 1568 days in filing the appeal. The petitioner is having a very good chance for succeeding the appeal and hence the delay in setting aside the exparte order passed by the Deputy Commissioner of Labour has to be condoned.

3. On the side of the petitioner, it is stated that the petitioner was under the illusion that notice will be given to the petitioner, after the vacancy of the Deputy Commissioner was filled up.

4. On the side of the respondent, it is stated that the reasons stated are unbelievable. Already the Agent of the petitioner has received the copies and the petitioners are aware of the exparte order. The claimant is 70 years old. The right of the claimant is deprived by the act of the petitioners. The delay is not properly explained and prayed the petition to be dismissed.

5. On the side of the petitioners, it is stated that the petitioners already deposited the entire amount. The petitioners have no objection in with drawal of 50% of the amount by the respondent and prayed the petition to be allowed on costs. On the side of the petitioners, it is stated that the deceased was not working in the Company, at the time of accident and that he left the Company.

6. On the side of the respondent, it is stated that the deceased died during the course of employment, while he was working in the Hotel. There was no necessity for the deceased to have present in the Hotel, at that time unless he was employed in the hotel from there he was taken to the hospital and then there he died.



7. Whether the deceased was a workman; whether the deceased was ill during the course of employment; can be decided in the main claim petition, counsel for the petitioners has stated that the entire amount was already deposited and that the petitioners have no objection in withdrawal of 50% of the deposited amount by the respondent.

8. In view of the above submission made by the petitioners' counsel, this Petition is allowed and the respondent is permitted to withdraw 50% of the amount, already deposited by the petitioners.

9. Registry is directed to number the appeal, if it is otherwise in order and send **a copy of this order to the trial Court.**

sd/-

15/09/2022

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

TO

THE DEPUTY COMMISSIONER OF LABOUR,
TIRUNELVELI, TIRUNELVELI DISTRICT.

COPY TO:

THE SECTION OFFICER,
JUDICIAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to M/S.THIRUVADIKUMAR, Advocate SR.No.10086

ORDER

IN

CMP(MD) No.4632 of 2020

IN

CMA(MD) SR.No.15873 of 2020

Date :15/09/2022

Ls

SA/SVR/SAR.2/19.09.2022/3P/4C