



*CMP No.2623 of 2023 and
CMA SR No.12830 of 2023*

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

CMP No.2623 of 2023 and

CMA SR No.12830 of 2023

1. Rajappa

2. Maheshwari

3. Ratha

...Petitioners/Appellants

Vs.

1. Sasikumar

2. New India Assurance Company Limited,

T.P.Hub, having office at Sedhukrishna Trade Centre,

Next to Rajasabari Theatre, Trichy Mani Road,

Gugai, Salem 636 006.

... Respondents/Respondents

Prayer in CMP No.2623 of 2023: Civil Miscellaneous Petition filed under Section 173(1) of the Motor Vehicles Act, 1988 to condone the delay of 1226 days in filing the civil miscellaneous appeal in CMA SR No.12830 of 2023.



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Prayer in CMA SR No.12830 of 2023: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to enhance the compensation awarded in the order dated 08.04.2019 made in MCOP No.1142 of 2017 on the file of the Special District Judge, Motor Accident Claims Tribunal, Salem with interest and cost by allowing the Civil Miscellaneous Appeal.

For petitioners : Mr. R.Jayaprakash

ORDER

(Order of this Court was made by D.KRISHNAKUMAR, J.)

This petition has been filed to condone the delay of 1226 days in filing the Civil Miscellaneous Appeal.

2. The petitioners herein are the claimants before the Tribunal in MCOP No.1142/2017 on the file of the Special District Court/Motor Accident Claims Tribunal, Salem and they filed the above said claim petition seeking compensation of Rs.60,00,000/- for the death of one Sathyaselan, son of the first and second petitioners and brother of the third petitioner. The Tribunal Awarded a sum of Rs.25,91,664/- as



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compensation and not satisfied with the quantum of Award, the petitioners filed the present appeal to enhance the compensation along with the instant petition to condone the delay of 1226 days in preferring the appeal.

3. The learned counsel for the petitioners submitted that the first petitioner is aged 63 years and he was bedridden due to his health issues and has been taken medical treatments. He further submitted that due to Covid-19, the petitioners faced financial crisis and hence, they could not approach the Court in time and in such circumstances, there occurred a delay of 1226 days in filing the Appeal and hence, the delay may be condoned.

4. Heard the learned counsel for the petitioners and perused the materials available on record.

5. The petitioners filed the Claim petition seeking compensation of Rs.60,00,000/- before the Tribunal and vide order dated 08.04.2019, the



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Tribunal awarded a sum of Rs.25,91,664/- on various heads. Aggrieved by the above above said Award, the petitioners preferred the present appeal with an inordinate delay of 1226 days along with the present petition. The petitioners stated in their affidavit that, due to serious ailments suffered by the first petitioner and also financial constrain faced by them inview of Covid-19, they could not contact their counsel for long time and only in the month of December 2022, they approached the counsel and filed the present appeal.

6. It is to be mentioned that, while filing a case with delay, each and every day's delay must be explained. But here in this case, for such an inordinate delay of 1226 days, the petitioners have not given any satisfactory reason in the affidavit. Further, they have not produced any materials to prove the factum of medical treatment taken by the first petitioner and also for the delay occurred. At this juncture, it is worthwhile to note that, with regard to inordinate delay, the Hon'ble Supreme Court in the decision in *Majji Sannemma alias Sanyasirao Vs. Reddy Sridevi and others reported in 2021 SCC Online SC 1260*, has



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observed as follows.

18. In the case of *P.K.Ramachandran* (supra), while refusing to condone the delay of 565 days, it is observed that in the absence of reasonable, satisfactory or even appropriate explanation for seeking condonation of delay, the same is not to be condoned lightly. It is further observed that the law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the courts have no power to extend the period of limitation on equitable grounds. It is further observed that while exercising discretion for condoning the delay, the Court has to exercise discretion judiciously

19. In the case of *Paundlik Jalam Patil* (supra), it is observed as under:-

" The laws of limitation are founded on public policy. Statutes of limitation are sometimes described as "statutes of peace". An unlimited and perpetual threat of limitation creates insecurity and uncertainty; some kind of limitation is essential for public order. The principle is based on the maxim " interest reipublicae ut sit finis litium ", that is, the interest of the State requires that there should be end to litigation but at the same time laws of limitation are a means to ensure private justice suppressing fraud and perjury, quickening diligence and preventing oppression. The object for fixing time-limit for litigation is based on public policy fixing a lifespan for legal remedy for the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies to see that the parties do not resort to dilatory tactics but avail their



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legal remedies promptly. Salmond in his Jurisprudence states that the laws come to the assistance of the vigilant and not of the sleepy".

20. In the case on *Basawaraj* (supra), it is observed and held by this Court that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case. It is further observed that the expression "sufficient cause" cannot be liberally interpreted if negligence, inaction or lack of bonafides is attributed to the party. It is further observed that even though limitation may harshly affects rights of a party but it has to be applied with all its rigour when prescribed by statute. It is further observed that in case a party has acted with negligence, lack of bonafides or there is inaction then there cannot be any justified ground for condoning the delay even by imposing conditions. It is observed that each application for condonation of delay has to be decided within the framework laid down by this Court. It is further observed that if courts start condoning delay where no sufficient cause is made out by imposing conditions then that would amount to violation of statutory principles and showing utter disregard to legislature.

21. In the case of *Pundlik Jalam Patil* (supra), it is observed by this Court that the court cannot enquire into belated and stale claims on the ground of equity. Delay defeats equity. The Courts help those who are vigilant and "do not slumber over their rights".

Therefore, in the light of the above decision of the Hon'ble Supreme Court, we are of the considered view that the petitioners have not approached the Court within the reasonable time and also they have not given any



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bonafide reason to condone such an inordinate delay of 1226 days i.e., nearly three and half years, in filing the appeal. Hence, the petition to condone the delay is liable to be dismissed and in view of the same, the Civil Miscellaneous Appeal also cannot be entertained.

7. Accordingly, this petition is dismissed. Consequently, the Civil Miscellaneous Appeal in CMA SR No.12830 of 2023 is also rejected at the SR stage itself. No costs.

(D.K.K., J.) (K.G.T., J.)

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Index:Yes/No
Internet:Yes/No
mst

To

1. The Special District Judge, Motor Accident Claims Tribunal, Salem.



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**D. KRISHNAKUMAR, J.
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