C.M.P. No.6377 of 2023
in
C.M.A.SR.No.35482 of 2023

N.MALA, J.,

This petition is filed to condone the delay of 1070 days in filing the appeal against the judgment and decree dated 19.12.2019 made in M.C.O.P.No.814 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Dharmapuri.

2.Though notice was served on the 1st respondent and his name is printed in the cause list, he has not appeared either in person or through counsel before this Court.

3. Learned counsel appearing for the petitioner submitted that due to multiple disabilities sustained by the petitioner/claimant, his family had to borrow money from private money lenders to the tune of Rs.9,32,773/- for his Medical Expenses. Hence, the award amount of Rs.14,93,453/- was withdrawn by the petitioner and the same was utilised for settling the loans along with interest. The learned counsel further submitted that in view of the averments made in paragraphs 5 and 6 of the affidavit filed in support of this petition, this Hon'ble Court may be pleased to condone the delay of 1070 days in filing the above appeal.

4. The 2nd respondent/Insurance Company has filed counter stating that there are no merits in this petition and the same deserves to be dismissed. The learned counsel appearing for the 2nd respondent/Insurance Company relied on the order of this Court dated 24.01.2023 made in C.M.P.No.20360 of 2022 in C.M.A.SR.No.49659 of 2022, wherein this Hon'ble Court dismissed the petition to condone the delay of 959 days in filing the appeal.

5. I have gone through the affidavit filed in support of this petition and counter affidavit filed by the 2nd respondent and the order of this Court relied on by the learned counsel for the 2nd respondent. The facts of the case stated in the order relied on by the learned counsel for the 2nd respondent are completely different and hence distinguishable. In the present case, according to the petitioner/claimant, though the claim was made for Rs.30,00,000/-, the award was passed for Rs.14,93,453/-, which was barely sufficient to settle the loan along with interest borrowed by his parents from private money lenders for his medical treatment. Therefore, the petitioner has stated that because of the financial crisis he was facing, he was not able to approach this Court immediately by way of appeal. It is further to be noted that it is specifically stated by the petitioner in the affidavit that out of 1070 days, 730 days fall within the COVID 2019 pandemic period and to that extent, the Hon'ble

Supreme Court had also extended the limitation period till March 2022. Therefore, according to the petitioner, the delay is only 340 days.

6. In the light of the averments made in the affidavit filed in support of this petition, the delay of 1070 days is condoned on condition that the petitioner shall forfeit the interest for the delay period of 1070 days. The delay of 1070 days is accordingly condoned. The petition is ordered on condition that the claimant shall not be entitled interest for the delay period of 1070 days.

7. The Registry is directed to number the appeal, if it is otherwise in order and print the name of Mr.C.Paranthaman, as the counsel for the 2nd respondent/Insurance Company at the time of admission.

14.06.2023

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N.MALA.J,

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