



C.M.P.No.20360 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 19.01.2023	Pronounced on 24.01.2023
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.P.No.20360 of 2022
in
C.M.A.No.sr49659 of 2022

1.Vijayan, aged 30,
S/o.Munusamy Naidu,
2.Minor KAvitha, age 5,
D/o.Vijayan,
3.Minor Sivasakthivel, age 3,
S/o.Vijayan,
Minor Appellants are represented
by their guardian/NF/Father Vijayan
all are residing at Patti Street, Eraiyur Village and Post,
Chengam Taluk, Tiruvannamalai District.

... Petitioner

Vs.

1.Sekar, S/o.Karuppasamy,
Residing at No.130A, Devampalayam Village,
Kunnathur Post,
Perunthurai Taluk,
Erode District.

2.The Divisional Manager,
The National Insurance Company Limited,
No.19, Officers Line,
Vellore.



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3.Senthilkumar, S/o.Pazhanisamy,
Residing at No.1/176, Vennkadachalapathy Nagar,
Tiruppur District.
Now residing at Mettu Street,
Kuppanatham Village and Post,
Chengam Taluk, Thriuvannamalai District.

... Respondents

Prayer: Petition filed under Section 173 (1) of Motor Vehicles Act, 1988 to condone the delay of 959 days in filing the Appeal against the Judgment and Decree dated 25.07.2018 made in MACTOP.No.227/2017 on the file of the Motor Accident Claims Tribunal, Special Motor accident Compensation Claims Tribunal, Special Sub Court, Thiruvannamalai.

For Petitioner : Ms.M.Malar

For Respondents : Dr.C.Paranthaman (for R2)

ORDER

This Petition has been filed to condone the delay of 959 days in filing the Appeal against the Judgment and Decree dated 25.07.2018 made in MACTOP.No.227 of 2017 on the file of the Motor Accident Claims Tribunal/Special Sub Court, Thiruvannamalai.



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2. Heard the learned counsel for the Petitioner and the learned counsel for the Respondents.

3. On perusal of the averments made in the affidavit filed in support of this Petition, I find that there is no sufficient cause and only lame excuses were pleaded. The counter affidavit filed by the 2nd Respondent/Insurance Company discloses that the trial Court has awarded a sum of Rs.15,30,472/- as against the claim of Rs.10,00,000/- and along with interest, a sum of Rs.24,10,199/- was deposited by the Insurance Company. The first claim Petitioner, who is a major has withdrawn a sum of Rs.6,75,637/- on 01.07.2020 itself. With regard to the shares of the minors, the same is in deposit as per the terms of the decree.

As per the maxims, *"Equity aids the vigilant, not those who slumber on their rights"*

This principle recognizes that an adversary can lose evidence, witnesses and a fair chance to defend himself or herself after the passage of time from the date that the wrong was committed. If the defendant can show disadvantages because for a long time he or she relied on the fact that no law suit would be



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started, then the case should be dismissed in the interests of justice. The law encourages a speedy resolution for every dispute. It does not favour the cause of someone who suddenly wakes up to enforce his or her rights long after discovering that they exist. A long unreasonable delay like this is called Laches, and it is a defense to various forms of equitable relief."

4.As the affidavit filed in support of this Petition, does not disclose any positive reasons, much less sufficient reasons, I am not inclined to condone the inordinate delay of 959 days, besides, the entire amount was already deposited and the same was also withdrawn by the 1st claim Petitioner. After the entire amount being deposited in the year 2018, I find no sufficient cause in this Petition.

5.Accordingly, this Petition is dismissed. Consequently, main Appeal in CMA.No.sr49659 of 2022 is rejected. No costs.

24.01.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order/Non-Speaking Order

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To

The Special Sub Judge,
Motor Accident Claims Tribunal,
Thiruvannamalai.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Order made in

C.M.P.No.20360 of 2022

in

C.M.A.No.sr49659 of 2022

Dated:24.01.2023