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CMP.No.17265 of 2023
in CMA.SR.No.91460 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 17.10.2023

Pronounced on : 22.12.2023

CORAM : JUSTICE N.SESHASAYEE

CMP.No.17265 of 2023
in CMA.SR.No.91460 of 2023

1.Chinnaponnu
2.Govindharaji
3.Sangeetha
4.Srinivasan
5.Nagaraji

... Petitioners

Vs

The Managing Director
Tamil Nadu State Transport
Corporation Limited
Arcot, Vellore District.

... Respondent / Respondent

PRAYER: Civil Miscellaneous Petition filed under Section 173(1) of the Motor Vehicles Act, praying to condone the delay of 1427 days in filing the CMA against the judgment and decree dated 26.04.2019 made in MCOP.No.17 of 2017 on the file of the Motor Accident Claims Tribunal, (II Additional District Judge), (FAC), Ranipet, Vellore District.

For Petitioners

: Mr.C.Prabakaran



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For Respondent

: Mr.C.R.Suresh Kumar

ORDER

The claimants have filed this petition seeking to condone the delay of 1427 days in filing the appeal, which is directed against the judgment of the Tribunal in MCOP.No.17 of 2017 on the file of Motor Accident Claims Tribunal (Additional District Judge), (FAC), Ranipet, Vellore District.

2. The case of the petitioners/claimants is that a certain Thangaraj, the son of the first petitioner died in an accident on 15.08.2016, and a claim petition was preferred before the Tribunal seeking a compensation for Rs.30,00,000/- . The Tribunal vide its judgment dated 26.04.2019, has awarded a sum of Rs.12,00,700/-, and directed the Transport Corporation to deposit the same. However, till the filing of the execution petition in E.P.No.33 of 2022, the Corporation has not deposited the award amount, and only on 30.03.2023, the award amount was deposited with interest, and a substantial portion of the amount was withdrawn by the petitioners sometime in April 2023.

3.The claimants are now before this Court in an appeal seeking enhancement



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of compensation, as the award of the Tribunal is low. Further, they contend that the Tribunal fixing 25% contributory negligence on the deceased victim (rider of the two wheeler) is unsustainable in law and the entire negligence has to be fastened on the driver of the bus.

4. The grounds alleged by the petitioner for the delay that has occasioned in filing the appeal is, owing to the COVID pandemic situation, they could not contact their counsel, and only during last week of December 2021, they met their counsel, and thereafter filed the execution petition. They also contend that they could not mobilize the funds to file an appeal in time, since the deceased is the only breadwinner of his family, which consists of five members, and his loss has put the whole family in dark. Hence, prays that the delay may be condoned.

5. The Transport Corporation has filed its counter alleging that the delay is very huge, and the cause for the delay alleged in the affidavit that the petitioners could not mobilise the funds in time, is incorrect.

6. Heard both sides. Even though award was passed as early as 26.04.2019,



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no compensation amount was deposited before 30.03.2023. Every litigation has its expenditure angle, and the claimants are not wealthy, it would be difficult to mobilise the amounts necessary for filing appeal. And, it should not be forgotten that COVID days consumed substantial part of 2020 and 2021. This Court is satisfied with the reasons stated in the affidavit filed in support of this petition, the delay is condoned, and this petition stands allowed. In the eventuality of the petitioners succeeding in the appeal, the proposed interest shall be reckoned only from the date on which the appeal is taken on record by the Registry.

22.12.2023

Index : Yes / No
Speaking order / Non-speaking order
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N.SESHASAYEE.J.,

ds

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