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CMP No.17706 of 2022
and
CMA SR No.110961 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.01.2023

PRONOUNCED ON : 17.03.2023

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMP No.17706 of 2022
and
CMA SR No.110961 of 2022

1. Shantha
2. Saranya Devi

...Petitioners/Appellants

Vs.

1. C.Alagesan

2. Shriram General Insurance Co., Ltd.,
1003-E-8, Rico Industry area,
Sita Pura, Jaipur, Rajasthan State.

... Respondents/Respondents

PRAYER in CMP No.17706 of 2022: This Civil Miscellaneous Petition is filed under Section 173 (1) of M.V. Act, to condone the delay of 3352 days in filing the appeal in CMA SR.No.110961 of 2022.

PRAYER in CMA SR.No.110961 of 2022: This Civil Miscellaneous Appeal is filed under Section 173 of MV Act, against the judgment and



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decree dated 30.04.2013 made in M.C.O.P.No.464 of 2011 on the file of the Motor Accidents Claims Tribunal [Principal District Judge], Dharmapuri.

For Petitioners/
Appellants : Mr.A.Vijayakumar

For Respondents : Mr.N.Somasundar (for R2)
No appearance (R1)

COMMON ORDER

Claimants are the appellants in the Civil Miscellaneous Appeal. They seek enhancement of compensation and such a Civil Miscellaneous Appeal was filed with a delay of 3353 days. Hence, this petition.

2. Counter affidavit has been filed by the 2nd respondent-Insurance Company.

3. Heard the learned counsel for the petitioners/appellants and the learned counsel for the 2nd respondent-Insurance company and perused the counter affidavit.



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4. The prime reason assigned by the 1st petitioner is that she has no information from her counsel that the award was passed on 30.04.2013 and only when she contacted her Advocate during April 2016, an application for certified copy was made on 09.06.2016 and thereafter, she went to Bangalore and could not contact her Advocate and the certified copy of award was handed over to her during November 2019 and therefore, it resulted in delay.

5. In the counter, the 2nd respondent-Insurance company has stated that the award was passed on 30.04.2013 and Execution Petition has been filed and amount has been deposited on 30.10.2014. It is further stated that the Claim petitioners' Advocate has filed an application for withdrawing the amount and the amount is also withdrawn.

6. Hence, I find that the averments made in the affidavit is not true reflection of the facts. The award in MCOP No.464 of 2011 was passed by the learned Principal District Judge, MACT, Dharmapuri on 30.04.2013.



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The entire award amount is deposited on 30.10.2014 and the amount is also withdrawn by the claim petitioners. Thus, I find that the reason assigned in the affidavit is invented for the purpose of this petition and there is no bonafide. Further, there is no positive reason much less any sufficient cause to condone the huge delay of 3353 days.

7. Accordingly, this condone delay petition in CMP No.17706 of 2022 is dismissed. Consequently, the appeal in CMA SR.No.110961 of 2022, stands rejected at the SR stage itself. No Costs.

17.03.2023

Index : Yes/No
Neutral Citation : Yes/No.
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To

The Principal District Judge,
Motor Accidents Claims Tribunal,
Dharmapuri.



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RMT.TEEKAA RAMAN,J.,

ars

Pre-delivery order in

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