



C.M.P. (MD)No.6890 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.P.(MD)No.6890 of 2023
and
C.M.A.(MD) No.SR25586 of 2023

The Branch Manager,
The New India Assurance Company Ltd.,
No.66, W.B.Road, Trichy.

...Appellant/2nd Respondent

Vs.

1.Gokilavasan
2.Minor Selvi Gokila
3.Minor Selvi Samyuktha
*[Minor 2 and 3 are represented by their brother and next
friend 1st respondent]*

4.G.Manimegalai
5.Selvarani
6.M/s.C.Channamallappa & Co.,
BPC Dealer, Main Road,
Kollegal Town, Chamarajnagar Taluk.

7.The Branch Manager,
The Oriental Insurance Company Ltd.,
D.O.1, C-31, The Jas Complex,
Sayyaji Road, Mysore-570 001.

...Respondents

PRAYER in C.M.P.(MD)No.6890 of 2023: This Civil Miscellaneous Petition is filed under Section 173(1) of the Motor Vehicles Act to condone the delay of 2001 days in filing the appeal.



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PRAYER in C.M.A.(MD)No.SR25586 of 2023: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the judgment and decree dated 10.04.2017 passed in M.C.O.P.No.508 of 2015 on the file of MACT/Special District Court, Tiruchirappalli.

For Petitioner : Mr. P.Malini

ORDER

This application has been filed to condone the delay of 2001 days in filing the appeal against the decree and judgment made by the Tribunal in M.C.O.P.No.508 of 2015, dated 10.04.2017.

2.The reasons assigned for such huge delay is that the accident had taken place in the State of Karnataka. Hence, FIR and the statement recorded under Section 161 Cr.P.C., were in Karanataka Police Station. The petitioner sought translation of all the documents. But, the file got mixed with other files in the Regional Office. After declaration of lock down owing to Covid-19, both Regional and Divisional Offices functioned with minimum numbers of employees as per the direction of the Government. Hence, the file could not be traced and left the attention of the Officer, who was dealing with it and the said person got transferred in due course. Thereafter, the petitioner came to know about the same,



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when the petitioner received summons in E.P.No.58 of 2022 in the month of February, 2023. Hence, the delay had occurred in filing the appeal.

3.At the outset, on perusal of the entire affidavit, this Court is of the view that the reasons assigned by the petitioner are contrary to the factual aspects. In fact, the Insurance Company/petitioner herein had contested the matter before the claim Tribunal at Trichy by filing counter affidavit stating that there is a contributory negligence as per the final report. The counter affidavit was filed on the basis of the final report filed under Section 279, 204(A) IPC r/w 185 of the Motor Vehicles Act. Thereafter, the award was passed on 10.04.2017. When the counter itself was filed on the basis of the final report and records, now it is improbable for the Insurance Company to say that those copies have been sought to be translated only after the award is passed.

4.The other reason stated by the petitioner is that since lock down is declared, the file could not be traced in the Regional Office. The lock down was declared only in the month of March, 2020. But the award has been passed in the year 2017. The petitioner was sleeping for three years even after the award is passed. Hence, the all the contentions are invented by the petitioner only for the purpose of filing this application. If such huge delay is mechanically condoned, it



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will amount to give license to the Officials to continue their lethargic attitude in pursuing the matter. What is applicable to the common man, is equally applicable to the public undertakings. The insurance company, being the public limited company and in the field of insurance, they ought to be vigilante in prosecuting the matter before the Court of law. They cannot sit over the files for the years together without any valid reason. When the Insurance Company has not taken any diligent steps to challenge the appeal immediately and slept over the files for more than five years, now it cannot invent false reasons to condone such a huge delay.

5.For the reasons stated above, this Court does not find any merits in this petition and accordingly, this Civil Miscellaneous Petition is dismissed. Consequently, the Civil Miscellaneous Appeal is also rejected at the SR stage itself. No costs.

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Index : Yes/No
Internet : Yes/No
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To



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- 1.The Motor Accident Claims Tribunal,
Special District Court, Tiruchirappalli.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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N.SATHISH KUMAR, J.

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