



CMP No.6319 of 2023
in Cross Obj.SR No.23607 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMP No.6319 of 2023
in Cross Obj.SR No.23607 of 2020

Judgment reserved on 15.01.2024	Judgment pronounced on .02.2024
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The New India Assurance Company Ltd.,
No.1, Bharathi Road,
Arcot Woodlands Building,
Cuddalore – 607 001.

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Petitioner

Vs.

1.L.Kothpathin
2.K.Ajimunisa
3.A.Abdul Regoop

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Respondents

Prayer : This Civil Miscellaneous Petition is filed under Section 5 of the Limitation Act to condone the delay of 180 days in complying the remarks of returns by the Registry in Cross Objection SR No.23607 of 2020 dismissed for default as per order dated 10.08.2022.

For Petitioner : Mr.J.Chandran

For Respondents : Mr.S.Udayakumar for R1
Mrs.Ramya V. Rao for R2



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ORDER

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This petition is filed under Section 5 of the Limitation Act to condone the delay of 180 days in complying the remarks of returns by the Registry in Cross Objection SR No.23607 of 2020 dismissed for default as per order dated 10.08.2022.

2. The first respondent herein filed MCOP No.1669 of 2016 claiming compensation for the injuries sustained by him in the accident happened on 03.01.2016. The Tribunal has awarded compensation and the claim petitioner has filed CMA No.318 of 2020 seeking enhancement of compensation. After service of notice in the appeal, the Insurance Company has filed Cross Objection in SR No.23607 of 2020 alleging that the compensation awarded by the Tribunal is excessive. The Cross Objection has been returned for compliance and the same was dismissed for default.

3. The present miscellaneous petition has been filed to condone the delay of 180 days in complying the remarks of returns by the Registry which was dismissed for default on 10.08.2022.



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4. Heard the learned counsel for the appellant in CMA No.318 of 2020/respondent in Cross Objection, who would submit that in National Lok Adalat conducted on 11.03.2023, the appellant has withdrawn the Civil Miscellaneous Appeal which was filed by her for enhancement of compensation and hence the said CMA was dismissed as withdrawn by this Court on 11.03.2023.

5. It remains to be stated that after issuance of notice in Cross Objection, the original claim petitioner has considered to withdraw the main appeal. It is settled preposition of law that whether the appeal is dismissed for default or dismissed as withdrawn , that will not affect the cross objection being filed by the respondent in the main appeal. Hence, I am of the considered view that the dismissal of main CMA No.318 of 2020 will not have any bar in filing CMP in any Cross Objection which was filed in the year 2020 itself viz., while the CMA was live on file.



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6. In view of the above, having satisfied with the reasons assigned in the affidavit filed in support of this petition, CMP No.6319 of 2023 in Cross Objection SR No.23607 of 2020 is allowed.

7. Registry is directed to number the petition and post the matter after

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.02.2024

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Index : Yes/No

Neutral Citation:Yes/No

Speaking Order: Yes/no

Pre-delivery Order in
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