



C.M.P.No.29456 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.P.No.29456 of 2023
in C.M.A.Sr.No.111149 of 2023

M/s.Vetri Constructions,
Rep. By its Proprietor, T.Vetrivel,
S/o.Mr.Thulukkanam,
No.9, Muthuramalingam Street,
MGR Nagar, Chennai 600 078.

...Appellant

Vs

1.The Commissioner for Workmen Compensation/
The Joint Commissioner of Labour I,
Chennai 6

2.Tmt.Sakunthala

3.The Zonal Officer,
No.64, NSK Salai, Kodambakkam,
Chennai 24.

... Respondents



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Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order dated 24.04.2018 passed by the 1st respondent viz. The Commissioner for Workmen Compensation/the Joint Commissioner for Labour-1, Chennai 6 herein.

For Appellant : Mr.T.Vijayshankar

For Respondent : R1 and R3 – No appearance
R2 – Left

ORDER

This petition has been filed to condone the delay of 1955 days in filing the CMA.Sr.No.111149 of 2023 against the award passed by the 1st respondent dated 24.04.2018 in W.C.No.38 of 2018.

2. The learned counsel for the petitioner would submit that since the father of the petitioner was not-well and due to Covid Pandemic from the year 2022, he was unable to appoint an advocate to file the appeal and hence, there was a delay of 1955 days in filing the aforesaid appeal.



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3. Heard the learned counsel for the petitioner and also perused the materials available on record.

4. In the present case, apart from the above submissions, the petitioner had not assigned any valid reasons for the delay in filing the appeal. In a petition to condone the delay in filing the appeal, the petitioner has to explain the day-to-day delay, however, the same was not done in the present case. Thus, the reason assigned by the petitioner, that due to Covid Pandemic from the year 2022, he was unable to appoint an advocate to file the appeal, is not proper and the same is unacceptable.

5. Further, it appears that only since the petitioner had received the recovery notices dated 08.07.2022, 01.06.2023 and 14.07.2023, he took steps to file the appeal, that too with a delay of 6 months from the date of receipt of said notices. This shows the lethargic attitude of the petitioner in complying the order passed by the 1st respondent dated 24.04.2018. Therefore, this Court is not inclined to allow this petition since no sufficient reasons were provided by the petitioner to condone the huge unexplained delay of 1955 days in filing the



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6. At this juncture, the learned counsel for the petitioner would submit that the petitioner had already entered into a private agreement with the claimants by virtue of “Samathana Pathiram” dated 22.09.2017 and paid a sum of Rs.3,00,000/- to the mother of the deceased.

7. As far as the above submission is concerned, the said aspect was considered by the 1st respondent, who passed the impugned order, and the same was rejected for a simple reason that entering into a private negotiation is against the provisions of Section 8(1) of the Workmen Compensation Act, 1923, which reads as follows:

“8. Distribution of Compensation.-

(1) No payment of compensation in respect of a employee whose injury has resulted in death, and no payment of lump sum as compensation to a woman or a person under legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation.

Provided that, in the case of a deceased employee, an employer may make to any dependent advances on account of



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compensation of an amount equal to three months' wages of such employee and so much of such amount as does not exceed the compensation payable to that dependent shall be deducted by the Commissioner from such compensation and repaid to the employer.”

8. A perusal of the above provision would make it clear that no employer can enter into any private negotiation for payment of compensation, however, the employer can only make advances on account of compensation of an amount equal to three months' wages of such employee.

9. Therefore, in the present case, if any compensation is paid contrary to the provisions of Section 8(1) of the Act, the same cannot be adjusted to the compensation, if any, arrived by the 1st respondent. All these aspects were well considered by the 1st respondent vide order dated 24.04.2018.

10. In view of the above, since no sufficient reasons were provided by the petitioner to condone the delay of 1955 days in filing the appeal and there are no merits in this matter, this Court is inclined to dismiss this civil miscellaneous petition along with the appeal in CMA.Sr.No.111149 of 2023.



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WEB COPY 11. Accordingly, this petition is dismissed. No cost.

15.02.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
nsa



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KRISHNAN RAMASAMY,J.

nsa

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