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*CMP.No.27886 of 2023
in CMA.No.SR155528 of 2023*

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(Filing Number)

M.SUNDAR, J
and
K.GOVINDARAJAN THILAKAVADI, J

(Order of the Court was made by **M.SUNDAR, J**)

Captioned 'Civil Miscellaneous Petition' ['CMP' for the sake of brevity] has been filed with a 'Condonation of Delay' ['CoD' for the sake of brevity] prayer qua 92 days delay in filing captioned 'Civil Miscellaneous Appeal' ['CMA' for the sake of convenience and clarity], which is a statutory appeal under Section 173 of 'The Motor Vehicles Act, 1988 (Act 59 of 1988)' [hereinafter 'MV Act' for the sake of brevity].

2. In captioned CMP, Hon'ble predecessor Division Bench has ordered notice to respondents on 15.12.2023, notice has since been served and Ms.P.Pooja, learned counsel representing the counsel on record is before this Court on behalf of R1 to R3. With regard to R4 (P.Kanniyappan, S/o.Perumal), he has been duly served and name of R4 is shown in the cause list.



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3. Today, Mr.P.Suresh Srinivasan, learned counsel for petitioner-Insurance Company drew our attention to paragraph 9 of support affidavit, which reads as follows:

'9. It is pertinent to note that the order was passed on 30.03.2023 and the copy application was made on 30.06.2023 and the copy of the award was made ready on 01.09.2023 and delivered on 02.09.2023 there after the certified copies were sent to the head office, the officer in charge of this case was not well and was under medical treatment for three months. Since the said senior manager is not well and on medical leave for a period of 3 months therefore he could not proceed with the case and give us necessary instruction to prefer the present appeal within the stipulated period. And also due to the delayed filing of Copy application a delay of 92 days occurred in filing the above appeal.'

4. With regard to paragraph 9 supra, learned counsel for R1 to R3 submitted that Insurance Company should have been more diligent and if it had been diligent, appeal could have been filed within time.

5. We carefully considered the rival submissions.



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6. We find that medical reason i.e., one of the officers being unwell has been cited as one of the grounds and therefore, treating this is a one off case and making it clear that it will not serve as precedent in cases of similar nature, considering the facts and circumstances of the case on hand, nature of the matter and the manner in which parties are circumstanced, CoD prayer is acceded to.

7. Sequitur is, delay condoned. Captioned CMP ordered as prayed for. There shall be no order as to costs.

**[M.S. J.] [K.G.T., J]
14.02.2024**

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