



CRP(MD).No.861 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

C.R.P(MD)No.861 of 2022

1.Ganapathi Ammal
2.Madasamy

... Petitioners/Petitioners/Petitioners

-Vs-

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division-II, Vannarapetti,
Tirunelveli.

... Respondent/Respondent/Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 21.09.2021 passed in I.A.No.256 of 2017 in M.C.O.P.No.45 of 2010 on the file of the Subordinate Court, Sankarankovil.

For Petitioners : Mr.C.Mayilvahan Rajendran

For Respondent : Mr.R.Rajamohan



CRP(MD).No.861 of 2022

WEB COPY

ORDER

The petitioners are the claimants before the Motor Accident Claims Tribunal. The first claimant's husband and the second claimant's father one Ganapathi died out of the accident. When the claim petition was filed in M.C.O.P.No.45 of 2010, the same was dismissed for default as on 01.11.2012. Thereafter only on 10.04.2017, an application for restoring the said petition is filed along with the condonation of delay application. The delay was 1609 days. Considering the huge delay and the reasons, which was mentioned in the affidavit, the trial Court dismissed the same, as against which, this civil revision petition is filed.

2. At the outset, this Court also finds that the affidavit is filed along with the application for condonation of delay, in a casual manner without properly explaining the delay of five years, by mentioning as if the petitioner was suffering from fever and he had protracted treatment till 2017 and thereafter only, he became alright. Proper particulars of what is the disease etc., should have been given for such huge delay.



CRP(MD).No.861 of 2022

WEB COPY

3. Be that as it may, when the petitioners are claimants claiming compensation for the death of the breadwinner of the family, considering the fact that they are the dependants, when substantial justice is pitched against the procedural justice, this Court would lean in favour of substantial justice, even though the affidavit filed in support of the condone delay application is casually filed without any responsibility whatsoever. The mistake in filing the application should not affect the parties, who are only claimants. On the other hand, the respondent corporation cannot also be put to prejudice. Therefore, for the delay, which is now caused, it is held that in the event of the Tribunal finding that any compensation is being payable by the respondent/corporation, further interest will not be granted to the petitioners. Accordingly, the Civil Revision Petition is allowed on the following terms:

(1)The order of the learned Motor Accident claims Tribunal/Subordinate Judge, Sankarankovil, dated 21.09.2021 in I.A.No.256 of 2017 in M.C.O.P.No.45 of 2010 shall stand set aside and the original petition is restored by allowing the consequential application of setting aside the order of dismissal also;



CRP(MD).No.861 of 2022

WEB COPY

(2)The trial Court shall consider the MCOP on its own merits and pass award in accordance with law;

(3)In the event of the trial Court finds that any compensation is payable to the claimants, then the same shall be quantified only with reference to the rates prevailing as on the date of filing of the petition in the year 2010 and the claimants will not also be entitled for any interest.

No costs.

02.07.2024

Index : Yes / No
Internet : Yes/ No
Rmk

To

- 1.The Subordinate Judge, Sankarankovil.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CRP(MD).No.861 of 2022

D.BHARATHA CHAKRAVARTHY, J.

Rmk

C.R.P(MD).No.861 of 2022

02.07.2024