



C.R.P. (MD) No. 915 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

C.R.P. (MD) No. 915 of 2024

Vellathurai

... Petitioner

-VS-

1.Murugan

Muthu Gounder (died)

2.United India Insurance Company Ltd.,
Through its Branch Manager,
Having Office at Door No.146 N,
Kumar Complex,
Tiruchengode Kaspas,
Namakkal District.

3.Saravana Murugan

4.United India Insurance Company Ltd.,
Through its Branch Manager,
Having Office at, Door No.924A,
C.C.C. Complex, Kovilpatti Kaspas,
Thoothukudi District

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 24.02.2022 passed in I.A. No. 310 of 2017 in M.C.O.P. no. 35 of 2008 on the file of the Subordinate Court, Sankarankovil.

For Petitioner : Mr. R.J. Karthick



For R2 & R4 : Mr. C.Karthik

For R3 : Mr. A.Mathan

ORDER

The Petitioner had on 04.03.2008 filed a petition bearing M.C.O.P. No. 35 of 2008 under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'MV Act' for short) before the Motor Accident Claims Tribunal/Sub-Court, Sankarankovil (hereinafter referred to as the 'Tribunal' for short) claiming compensation for the injuries sustained by him in an accident involving a motor vehicle that had been taken place on 24.08.2003 at about 9.45 p.m. near the bridge at Madukudi on the Rajapalayam to Sankarankovil Main Road. Since the Petitioner did not appear for hearing on 29.09.2011, that claim petition was dismissed for non-prosecution. Long thereafter, the Petitioner had on 10.11.2017 filed an application to restore it to file along with an application in I.A. No. 310 of 2017 to condone the delay of 1497 days in filing it, which was rejected by order dated 24.02.2022, and has been assailed in this Civil Revision Petition invoking Article 227 of the Constitution.

2. Heard Mr. R.J.Karthick, Learned Counsel for the Petitioner and Mr. C.Karthik, Learned Counsel for the Second and Fourth Respondents and perused the materials apart from the pleadings of the parties.



3. Since the First and Third Respondents remained *exparte* before the Tribunal, notice to them is dispensed with.

4. The Tribunal by order dated 24.02.2022, citing the ruling of this Court in ***K.Thirumalselvan -vs- Indhira Gandhi*** [(2021 (1) TN MAC 461] in C.M.P. No. 14020 of 2020 in C.M.A. SR 83398 of 2020, held that the inordinate delay of 1497 days in filing the application to restore the claim petition could not be excused and has rejected the said application by the impugned order.

5. At the outset, it must be remembered that prior to 01.04.2022, there was no limitation for filing claims seeking compensation for injury or death arising out of the use of the motor vehicle under the Motor Vehicles Act, 1988 (hereinafter referred to as the 'MV Act' for short). In clause (3) of Section 166 of the MV Act, which was introduced by the Motor Vehicles (Amendment) Act, 2019, it has been provided that a claim for such compensation must be filed before the Tribunal within six months from the date of accident, and the Hon'ble Supreme Court of India in ***Gohar Mohammed -vs- Uttar Pradesh State Road Transport Corporation*** [(2023) 4 SCC 381], after examining the relevant provisions of the Motor Vehicles Act, 1988, relating to filing the claim petition seeking compensation for injuries/deaths caused in motor accidents



C.R.P. (MD) No. 915 of 2024

after the said amendment, has held that in case the claimants have failed to take recourse either under Section 164 or Section 166 within the prescribed period of limitation, the report submitted by the investigating officer to the Claims Tribunal, within whose jurisdiction the accident occurred, may be treated as claim application under Section 166(4) and would not debar the claimant(s) to seek compensation if he/they could not file the application under Section 166(1) of the MV Act in time. This would obviously mean that if police records are available on the occurrence of the accident showing the involvement of the Petitioner, no question of limitation in pursuing his claim would arise and if the Petitioner had not filed the claim petition earlier (on 04.03.2008) and had been instead filed on 10.11.2017 (when the restoration petition was filed), it would have been entertained.

6. It would assume significance here that if the claim petition is dismissed for non-prosecution, the claimant cannot file another petition, but could only seek to restore the earlier petition as in this case. It is equally well known that interest on compensation awarded for victims of motor accidents is normally computed only from the date of filing of the claim petition, and the only substantial prejudice that could be caused to the vehicle owner and his insurer when there is delay in disposal of the claim petition is the mulcting of liability



on them to pay interest for the period of pendency of the claim petition. Viewed from that perspective, if interest is denied to the claimant from the date of dismissal of the claim petition for default till the date on which it is restored to file, none of the contesting parties can have any grievance in that regard.

7. Having due regard to the aforesaid salient features of the case on hand viz-a-viz the legal position referred supra, it is not possible to subscribe to the observations made by this Court in the decision in ***K.Thirumalselvan -vs- Indhira Gandhi*** [(2021 (1) TN MAC 461], which runs diametrically opposite to the binding dictum of the Hon'ble Supreme Court of India in ***N.Balakrishnan -vs- M.Krishnamurthy*** [(1998) 7 SCC 123] , where it has been held as follows:-

9. It is axiomatic that condonation of delay is a matter of discretion of the court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient, it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. But it is a different matter when the first court refuses to condone the delay. In such cases, the superior court would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammelled by the conclusion of the lower court.



10. The reason for such a different stance is thus:

The primary function of a court is to adjudicate the dispute between the parties and to advance substantial justice. The time-limit fixed for approaching the court in different situations is not because on the expiry of such time a bad cause would transform into a good cause.

11. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a lifespan must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim *interest reipublicae ut sit finis litium* (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

12. A court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words “sufficient cause” under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide *Shakuntala Devi Jain v. Kuntal Kumari* [AIR 1969 SC 575 : (1969) 1 SCR 1006] and *State of W.B. v. Administrator, Howrah Municipality* [(1972) 1 SCC 366 : AIR 1972 SC 749].

13. It must be remembered that in every case of delay, there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy, the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time, then the court should lean against acceptance of the explanation. While condoning the delay, the court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite large litigation expenses. It would be a



salutary guideline that when courts condone the delay due to laches on the part of the applicant, the court shall compensate the opposite party for his loss.

8. Taking a pragmatic approach to the nature of the litigation in this case in the light of the discussion supra, it would be appropriate on its peculiar facts to set aside the impugned order refusing to condone the delay of 1497 days in filing the restoration application. The claim petition is restored to the file of the Tribunal on condition that the Petitioner shall not be entitled to interest on the compensation amount, if awarded, from 29.09.2011 when the claim petition was dismissed for non-prosecution till today when it is restored to file. Learned Counsel for the Petitioner has also made an endorsement to that effect in the court record.

9. The parties shall appear before the Tribunal on 19.07.2024 for conduct of the proceedings following the prescribed procedure affording full opportunity of hearing to them. The Tribunal shall deal with each of the contentions raised by the parties and pass reasoned orders on merits and in accordance with law. It shall be ensured that there is atleast one effective hearing every week showing progress of the case and quarterly reports of compliance are sent to the Registrar (Judicial) of this Court till the matter is decided finally.



C.R.P. (MD) No. 915 of 2024

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In the result, this Civil Revision Petition is ordered on the aforesaid terms. No costs.

16.04.2024

Index : Yes/No
Internet : Yes/No
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To

1. The Subordinate Court, Sankarankovil.
2. The Section Officer,
Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai.
3. Vellathurai,
South Street, Valavanthalpuram Village,
Cholpuram South Post, Sankarankovil Taluk,
Tirunelveli District, now Tenkasi District.
4. Murugan
No.66, Gurusamy Kovil Street,
Kottur Village, Sattur Taluk,
Virudhunagar District.
5. United India Insurance Company Ltd.,
through its Branch Manager,
having office at Door No.146N, Kumar Complex,
Tiruchengode Kaspas, Namakkal District.
6. Saravana Murugan,
No.7, Varasanthai Street, Sankarankovil Kaspas,
Tirunelveli District, now Tenkasi District.



C.R.P. (MD) No. 915 of 2024

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7. United India Insurance Company Ltd.,
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C.R.P. (MD) No. 915 of 2024

P.D. AUDIKESAVALU, J.

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C.R.P. (MD) No. 915 of 2024

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