



C.M.P(MD)No.6184 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2024

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THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

C.M.P(MD)No.6184 of 2019

in

C.M.S.A(MD)No.SR 24000 of 2016

The Branch Manager
The New India Assurance Co., Ltd.,
Kovilpatti,
Tuticorin District.

... Petitioner/Appellant

-Vs-

1.Subbuthai
2.Minor Subashini
(Minor rep. through her natural
guardian/mother viz., 1st respondent)

3.Rajalakshmi
4.Sankaranarayanan
5.Alagarsamy

... Respondents/Respondents

PRAYER in C.M.P(MD)No.6184 of 2019: Civil Miscellaneous Petition is filed under Section 5 of Limitation Act, to condone the delay of 1233 days in representing the above CMSA(MD)No.SR 24000 of 2016.



C.M.P(MD)No.6184 of 2019

Prayer in C.M.S.A(MD)No.SR 24000 of 2016: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the fair and decreetal order dated 27.02.2015 passed in MCOP No.89 of 2013 on the file of the Motor Accident Claims Tribunal(Sub-Judge), Sankarankovil.

For Petitioner : Mr.S.Sarvagan Prabhu

ORDER

This Civil Miscellaneous Petition is filed by the Insurance Company under Section 5 of the Limitation Act, in order to condone the delay of 1233 days in representing the appeal, in respect of the award dated 27.02.2015 passed in MACOP No.89 of 2013 by the Motor Accident Claims Tribunal/Sub-Court, Sankarankovil.

2.Heard the learned counsel for the petitioner.

3.The claimants four in number had filed MCOP No.89 of 2013 before the the Motor Accident Claims Tribunal/Sub-Court, Sankarankovil, for the death of Balasubramaniam who died in a road accident that occurred



C.M.P(MD)No.6184 of 2019

on 28.07.2013. The Tribunal passed an award for a sum of Rs.35,15,736/- by an order dated 27.02.2015. The Insurance Company not satisfied with the award passed by the Tribunal, preferred Civil Miscellaneous Appeal against the said judgment. It was filed before this Court and the same was returned for re-presenting for want of certified copy of the judgment in MCOP No.89 of 2013.

4.The learned counsel for the petitioner would submit that the said judgment was circulated to him by the Insurance Company in the month of March 2017 and he was not in a position to locate the returned bundle and mixed up with the other bundles. Therefore, the delay of 1233 days occurred in re-presenting the above appeal. No doubt the delay is a long delay.

5.The law is well settled that in matters of condoning the delay, the Courts have to be liberal. But on the other hand, the petitioner has to give a reasonable cause for the delay occurred.



C.M.P(MD)No.6184 of 2019

WEB COPY

6.The reason put-forth in the petition is that the returned bundle was mixed with the other bundles in the office. To locate the bundle there was a delay of 1233 days, ie., three years and three months. The reasons put-forth cannot be taken as a reasonable cause and therefore, necessarily the petition is liable to be dismissed and accordingly dismissed. Consequently, the Civil Miscellaneous Appeal is rejected at SR stage itself.

18.11.2024

NCC:Yes/No

Index:Yes/No

Internet::Yes/No

To

1.The Motor Accident Claims Tribunal

(Sub-Judge),

Sankarankovil.



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C.M.P(MD)No.6184 of 2019

R. KALAIMATHI,J.

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C.M.P(MD)No.6184 of 2019
in
C.M.S.A(MD)No.SR 24000 of 2016

18.11.2024