

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THURSDAY, THE TWELFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE M.G.PRIYADARSINI

IA NO: 2 OF 2024

IN/AND

MACMA NO: 576 OF 2024

Appeal filed under Section 173 of M.V. Act against the order and decree, dated 15/02/2016 in O.P No.623 of 2012 on the file of XI Additional Chief Judge, City Civil Courts, at Hyderabad.

Between:

Kesireddy Santoshi, D/o. Kista Reddy, Aged about 33 years, Occ - Nill, R/o. Peerlapally Village, Jagadevpur Mandal, Medak District.

...CLAIMANT/APPELLANT

AND

1. Mr. Jawahar Lal, S/o. Not known, Age-major, occ- Business, R/o.106, Jibli Ganj, Rajban Bazar, Meerut.
2. The New India Assurance Co. Ltd, Rep. by its Branch Manager, 101, 1st Floor, Thirumala Towers, Judges Colony, Malakpet, Hyderabad.
R1 Remained ex party in Lower Court

...RESPONDENTS/RESPONDENTS

IA NO: 2 OF 2024

Petition under Section 5 of Limitation Act praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to pass orders by condone the delay of 2794 days, in filing the above appeal.

Counsel for the Appellant: Sri T. Viswarupa Chary

Counsel for the Respondent No. 2: Sri P. Bhanu Prakash

The Court made the following: ORDER

HONOURABLE SMT.JUSTICE M.G.PRIYADARSINI

I.A.No.2 of 2024

In/And

M.A.C.M.A.No.576 OF 2024

ORDER:

Aggrieved by the order dated 15.02.2016 (hereinafter will be referred as 'impugned order') passed by the learned XI Additional Chief Judge, City Civil Court, Hyderabad (hereinafter will be referred as 'Tribunal') in M.V.O.P.No.623 of 2012, the claimant/appellant has preferred the present Appeal to enhance the quantum of compensation.

2. For the sake of convenience, the parties hereinafter are referred as they were arrayed before the Tribunal.

3. The brief facts of the case as can be seen from the record are that the petitioner filed claim petition under Section 163-A of the Motor Vehicle Act claiming compensation of Rs.5,00,000/- for the injuries sustained by him in a road traffic accident that occurred on 11.11.2011 at Rampur Thanda against the respondent Nos.1 and 2, who are owner and insurer of the crime vehicle i.e., Lorry bearing No. UP 15 Y 9588.

4. Before the learned Tribunal, the respondent No.1 remained *exparte* and whereas respondent No.2 filed counter

denying the petition averments including the manner of accident, age, avocation, earning capacity, medical expenditure, negligence of driver of crime vehicle and finally prayed to dismiss the claim petition.

5. The learned Tribunal after considering the oral and documentary evidence, partly allowed the claim petition awarding Rs.83,000/- as compensation in favour of the petitioner/appellant. Aggrieved by the same, the present Appeal is preferred by the petitioner to enhance the quantum of compensation.

6. Before going into the merits of the case, it is pertinent to note that the present Appeal is filed along with an interlocutory application i.e., I.A.No.2 of 2024 to condone the delay of 2794 days in filing the present Appeal. Thus, it is to be ascertained as to whether the petitioner/appellant has established just and sufficient cause to condone the delay of 2794 days.

7. The learned counsel for the petitioner/ appellant submitted that due to ill health and corona lockdown, she could not prefer the Appeal within the stipulated period and that the filing of the appeal with a delay of 2794 days is neither willful nor negligence.

8. On the other hand, the learned counsel for the respondents/respondents submitted that the petitioner/appellant has not filed any medical certificate and that no valid reasons were explained for the day to day delay except contending that on account of her ill health and corona lock down she could not file the appeal in time. In this connection, the learned counsel for the respondents/ respondents relied upon a decision of the Honourable Apex Court in ***Estate Officer Haryana Urban Development Authority v. Gopi Chand Atreja***¹.

9. Heard both sides and perused the record.

10. On considering the rival contentions, it is amply clear that except contending that the petitioner/appellant was suffering from ill health, no other reason was assigned for the delay in filing the Appeal. Apart from that the petitioner/appellant has not placed any documentary evidence to establish that she was suffering from ill health for all these 2794 days i.e., for more than seven and half years. The petitioner/appellant has not even specifically stated as to what is the health issue with which she had been suffering during the above said period. As rightly contended by the learned counsel for the respondents there is

¹ AIR 219 SC 1-23

no corona (covid-19 pandemic) in the year 2016 and even if the petitioner/appellant is suffering from ill health for more than three years, she ought to have filed the medical certificate. The reason assigned by the petitioner/appellant is appearing to be vague and general. In fact, the above reason assigned by the petitioner/appellant for the delay in filing the Appeal is appearing to be a concocted one. When a party is found to be negligent or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. In order to advance substantial justice, liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind, however, the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act.

11. It is to be seen that no prejudice is going to be caused to the petitioner/appellant if the delay is not condoned, more particularly, when the respondents/respondents have already filed an Appeal vide M.A.C.M.A.No.2550 of 2016 challenging the order passed in MVOP No.623/2012 and the petitioner/appellant can put forth her contentions in the said Appeal.

12. In view of the above facts and circumstances and since the petitioner/ appellant failed to show just and sufficient cause for the delay of 2794 days in filing the Appeal, this Court is not inclined to condone huge inordinate delay of 2794 days in filing the Appeal. Hence, this interlocutory application is liable to be dismissed.

13. Accordingly, I.A.No.2 of 2024 is dismissed and as a consequence, the M.A.C.M.A.No.576 of 2024 is rejected.

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Sd/- T. TIRUMALA DEVI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

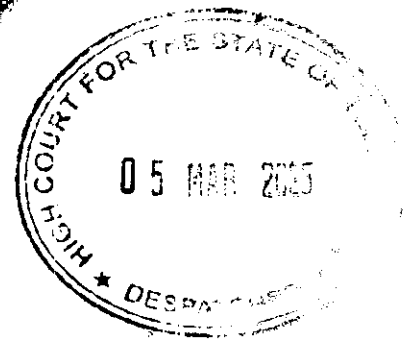
1. The XI Additional Chief Judge, City Civil Courts, at Hyderabad.
2. One CC to Sri T. Viswarupa Chary, Advocate [OPUC]
3. One CC to Sri P. Bhanu Prakash, Advocate [OPUC]
4. Two CD Copies

VH/gh



HIGH COURT

DATED: 12/12/2024



ORDER
IA No: 2 of 2024
in/and
MACMA.No.576 of 2024

DISMISSING THE
IA No: 2 of 2024
and
REJECTING THE
MACMA.No.576 of 2024

⑥
RP
12/2/25