



W.P.No.10763 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.10763 of 2023

and

WMP.No.10706 of 2023

G.Dhanasekaran

... Petitioner

Vs.

1.The Joint Commissioner of Labour
(Commissioner under Employees Compensation Act),
O/o. The Joint Commissioner of Labour,
Integrated Labour Department offices Building,
Bangalore Road, Abdullapuram, I.T.I. Campus,
Melmanavoor, Vellore 632 010

2.Valli

3.Minor Varalakshmi

4.Minor Tamizharasi,

5.Minor . Praveena

6.Minor Praveen

[R.3 to R.6 rep. by her mother/next friend Mrs.Valli, the 2nd respondent]

7.Bakthan

8.Muniyammal

9.The Manager



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United India Insurance Company Ltd.,
3rd Party Hub office,
No. 81, T.K.M. Complex,
Katpadi Road, Vellore 4

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, call for the records pertaining to order of the 1st respondent dated 09.11.2022 made in E.C.I.A. No. 28 of 2018 and quash the same in the interest of justice.

For Petitioner : M/s.R.Amardeep for Tamizh Law Firm

For Respondent : M/s.A.N.Purushotham, Spl.GP for R.1

: M/s.T.Shanmugam for R.2, R.7 & R.8

: R.3 to R.6 - minors, rep. by R.2

: M/s.J.Michael Visuvasam for R.9.

ORDER

Challenging the order passed by the 1st respondent in and by which the 1st respondent had condoned the delay of 3330 days in filing an Employees Compensation Petition, the petitioner is before this Court.

2. The facts are briefly set out hereinbelow.



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3. The respondents 2 to 8 are the legal representatives of one Beeman. The case of respondents 2 to 8 is that the deceased Beeman was employed as a Driver by the petitioner herein. While, the said Beeman was driving a Harvester belonging to the petitioner bearing Regn.No.TN-25-T-1570 from Unmurathai Teachers Training School to Arani Thaar Salai, the left side rear wheel got punctured as a result the vehicle lost control and capsized on the left side of the pit and by reason of this the said Beeman sustained fatal injury and died on the spot.

4. It is the case of the petitioner that he had paid a compensation of Rs.2,00,000/-, immediately after the accident to the legal representatives of Beeman on 16.02.2009. The petitioner would submit that the said Beeman was not an employee under him.

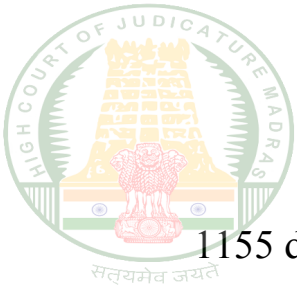
5. While so, respondents 2 to 8 had come forward to file a petition before the 1st respondent seeking compensation under the Employees Compensation Act for the death of the said Beeman. They



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would contend that the accident had taken place in the course of employment and therefore they are entitled to compensation. The said petition was filed with a delay of 3330 days and IA.No.28 of 2018 was filed to condone the delay. The said IA was dismissed for default on 16.08.2018. Thereafter, respondents 2 to 8 had file two applications in I.A.No.35 of 2021 (for condoning the delay) and IA.No.36 of 2021 (to restore the petition) once again with a delay of 1155 days. These petitions were allowed without considering the objections raised by the petitioner herein. Consequently, IA.No.28 of 2018 was restored and the same was allowed on the ground that an opportunity of hearing should be given. Challenging the same, the petitioner is before this Court.

6. The learned counsel appearing for the petitioner would submit that the respondents 2 to 8 have not given reasons for the delay of nearly 10 years in filing the Employees Compensation Petition. He would further submit that after the filing of the application, the respondents 2 to 8 have allowed IA.No.28 of 2018 to be dismissed for default and the same has been restored with an inordinate delay of



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1155 days.

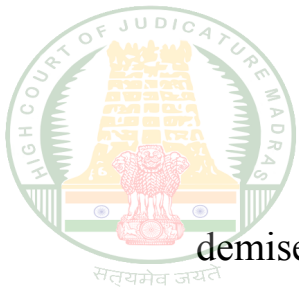
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7. The learned counsel would submit that under the provisions of the Employees Compensation Act it is clearly stated that an application to be filed within a period of 1 year from the date of the accident (now it has been increased to 2 years).

8. Per contra, Mr. T.Shanmugam, learned counsel appearing on behalf of respondents R.2, R.7 & R.8 would submit that the respondents 2, 7 and 8 are poor, illiterate workmen who are not aware about their legal rights and therefore a more liberal approach ought to be taken by this Court.

9. Heard the learned counsel on either side and perused the records.

10. Section 10(1) of the Employees Compensation Act clearly provides that a petition has to be filed within a period of 1 year from the date of accident. This has been increased now to 2 years. The respondent 2 to 8 have filed the petition nearly 10 years after the



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demise of the workman and therefore the same is clearly barred by limitation.

11. The Hon'ble Supreme Court in the judgment quoted by the learned counsel for the petitioner in Civil Appeal No.6514 of 1997 reported in ***CDJ 1997 SC 292 - P.K.Ramachandran Vs. State of Kerala*** has observed as follows :-

"Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds. The discretion exercised by the High Court was, thus, neither proper nor judicious. The order condoning the delay cannot be sustained. This appeal, therefore, succeeds and the impugned order is set aside. Consequently, the application for condonation of delay filed in the High Court would stand rejected and the Miscellaneous First Appeal shall stand dismissed as barred by time."



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11. Therefore, once the statute prescribes a period for filing the application, it must be filed within that prescribed period. Further, the respondents 2 to 8 have received a sum of Rs.2,00,000/- within 4 days of the demise of Beeman.

12. Therefore, in the light of Section 10(1) of the Employees Compensation Act and the above referred judgment, the order passed by the 1st respondent dated 09.11.2022 in IA.No.28 of 2018 has to be set aside and is accordingly set aside.

13. In fine, the Writ Petition is allowed. However, since the petitioner has offered a sum of Rs.1,00,000/- over and above the amount already paid, if the respondents are inclined to accept the same, they may make a request, upon which the amount shall be paid. No costs. Consequently, the connected Miscellaneous Petition is closed.

31.07.2025



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Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

(shr)

To

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(Commissioner under Employees Compensation Act),
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