



*C.M.P.(MD)No.633 of 2025
in Rev.Aplc(MD)No.SR 2198 of 2025
in C.M.A(MD)No.331 of 2023*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 22.04.2026

Pronounced on : 12.06.2026

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.P.(MD)No.633 of 2025
in
Rev.Aplc(MD)No.SR 2198 of 2025
in
C.M.A.(MD)No.331 of 2023

B.Thekkan

: Petitioner

Vs.

1.Cinnaponnu

2.Poongothai

3.Gurusamy

4.Pitchaiyammal

5.ICICI Lamboard General Insurance United,
Arket 3rd Floor, Annamalai Nagar,
Karur By Pass Road, Thillai Nagar,
Trichy.

: Respondents

PRAYER in C.M.P(MD)No.633 of 2025: Civil Miscellaneous Petition filed under Section 5 of Limitation Act, to condone the delay of 421 days in filing the review application to review the order passed in C.M.A(MD)No.331 of 2023, dated 13.10.2023.



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PRAYER in Rev.Applc(MD)No.SR 2198 of 2025 : Review Application filed under Order 47 Rules 1 and 2 r/w Section 114 of C.P.C., to review the order passed by this Court in C.M.A(MD)No.331 of 2023, dated 13.10.2023.

For Petitioners : Mr.D.Shanmugaraja Sethupathy,

For Respondents : Mr.N.Sudhagar Nagaraj, for R1 to R3.

: Mr.P.Pethu Rajesh, for R5.

: R4 died.

ORDER

The above petition has been filed, invoking Section 5 of Limitation Act, to condone the delay of 421 days in filing the review application to review the order passed in C.M.A(MD)No.331 of 2023, dated 13.10.2023, on the file of this Court.

2. The facts not in dispute are as follows :

(a) The respondents 1 to 4 filed a claim petition in M.C.O.P.No.139 of 2009, claiming compensation for the death of one Ganesan, consequent to an accident occurred on 11.03.2009. The present petitioner, who is the first respondent in the claim petition, filed a counter statement and contested the



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case. The tribunal passed an award, dated 17.02.2011, granting compensation to the claimants payable by the insurer.

(b) Challenging the said award, the insurer preferred an appeal in C.M.A(MD)No.80 of 2013. Since the insurer has taken a stand that there was no policy of insurance in force for the vehicle in question, this Court vide judgment, dated 16.12.2014, remitted the claim petition back to the trial Court and gave liberty to all the parties to adduce evidence to prove the issue whether there was insurance policy in force for the vehicle in question.

(c) The Tribunal, after recording further evidence, passed an order, dated 28.08.2015, holding that the first respondent's vehicle was not possessing valid insurance coverage for the relevant period, held that the insurer is not liable for the claim and directed the first respondent-owner to pay compensation.

(d) Challenging the said award, the first respondent-owner filed an appeal in C.M.A(MD)No.331 of 2023 and the learned Judge of this Court,



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passed the impugned judgment, dated 11.10.2023, dismissing the appeal and thereby confirming the award passed by the trial Court. Challenging the said judgment, the present review application came to be filed along with the above application to condone the delay of 421 days in filing the review application.

3. The petitioner, in the affidavit, filed in support of the delay condonation petition has mainly narrated about the aspects touching the merits of the main case and in paragraph No.6 of the affidavit, it has been stated that the counsel representing him before this Court failed to inform about the dismissal of the appeal; that the claimants filed an execution petition before the Tribunal and the Tribunal passed an order attaching the movable properties of the petitioner; that the petitioner came to know about the dismissal of the Civil Miscellaneous Appeal only when the Court Amin came to his house for attaching the movables on 28.11.2024 and he contacted his counsel, who filed Civil Miscellaneous Appeal and he was informed that appeal was already dismissed on 13.10.2023 itself; that he was also informed that his counsel failed to file any copy application for getting certified copy of the judgment passed in Civil Miscellaneous Appeal and hence, he requested the counsel to



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get the copies and accordingly, copy application was made on 06.12.2024 and the certified copies were made ready on 10.12.2024 and the same was dispatched on 11.12.2024; that the petitioner has thereafter approached the present counsel for taking further action; that he was advised to file review application, after going through the documents; that since the petitioner lost confidence on the counsel, who filed Civil Miscellaneous Appeal, he approached the same counsel again for getting no objection in the vakalat and after getting no objection, the review application has been filed; that he could not file review application immediately on receiving the certified copies due to the intervening Christmas vacation; that the delay is neither willful nor wanton, but due to the reason mentioned about and that therefore, it has become just and necessary to condone the delay in filing the review application, otherwise, great prejudice and irreparable injury would be caused to him.

4. The fifth respondent/insurer filed a counter affidavit disputing the petitioner's affidavit averments and further stated that the petitioner has been contesting the main appeal by tooth and nail before this Court through his earlier counsel and hence, the fifth respondent was astonished by defence



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taken by the petitioner that the dismissal of Civil Miscellaneous Appeal was known to him only after the court Amin came to his house on 28.11.2024; that the petitioner, who is litigating the case ought to have contacted his earlier counsel and get information about the status of the case; that on failure on his part to get updates from his earlier counsel will not give rights or liberty to prefer the review petition with a delay of 421 days; that the claim petition was originally filed in the year 2009 and the claimants are waiting from 2009 to get compensation; that the present case is a classic example where the petitioner is adopting one technique after another only to prevent the execution of award; that it is the onus on the part of the petitioner to explain each and every day delay to the utmost satisfaction of the Court; that the petitioner has not canvassed any plausible reason to condone the delay; that the memorandum of grounds and affidavit filed in the present review petition would clearly establish that the petitioner has been trying to reopen and re-argue the main appeal by engaging a new counsel; that since there are no grounds made out to entertain the review application, the present delay condonation petition is liable to be dismissed and that the review application filed by the petitioner through new counsel cannot be entertained.



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5. Before proceeding further, it is necessary to refer the decision, in the case of ***Shankargir Vs. State of Madhya Pradesh and another*** passed in ***Civil Appeal No.14613 of 2025, dated 05.12.2025***, wherein the Hon'ble Apex Court expressed its dismay over the manner in which the High Court had condoned the delay of 1612 days on the mere asking of the State Government. The Hon'ble Supreme Court reiterated that the law relating to limitation and condonation of delay is well settled and that the existence of "sufficient cause" must be established and scrutinized before granting such relief.

6. In the case of ***Thirunagalingam Vs. Lingeswaran and another*** reported in ***2025 Live Law SC 560***, the Hon'ble Apex Court reiterated the legal position that while considering the plea for condonation of delay, the first and foremost duty of the court is to first ascertain the bona fides of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter. Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay and the relevant portion is extracted hereunder :



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“Further, this Court has repeatedly emphasised in several cases that delay should not be condoned merely as an act of generosity. The pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party. In the present case, the respondents/defendants have failed to demonstrate reasonable grounds of delay in pursuing the matter, and this crucial requirement for condoning the delay remains unmet.”

7. The learned counsel for the respondent would rely on the decision of Hon'ble Supreme Court in ***State of Madhya Pradesh Vs. Ramkumar Choudhary*** reported in ***2024 SCC Online SC 3612***, wherein its earlier decision in ***Union of India Vs. Jahangir Byramiji Jeejeebhoy(D) through his legal heir***, reported in ***2024 SCC Online SC 489***, was referred and the relevant passages are extracted hereunder :

5.1. In Union of India v. Jahangir Byramji Jeejeebhoy (D) through his legal heir, wherein, one of us (J.B.Pardiwala, J) was a member, after referring to various decisions on the issue, it was in unequivocal terms observed by this Court that delay should not be excused as a matter of generosity and rendering substantial justice



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is not to cause prejudice to the opposite party. The relevant passage of the same is profitably extracted below:

“24. In the aforesaid circumstances, we made it very clear that we are not going to look into the merits of the matter as long as we are not convinced that sufficient cause has been made out for condonation of such a long and inordinate delay.

25. It hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning the gross delay of more than 12 years. If the litigant chooses to approach the court long after the lapse of the time prescribed under the relevant provisions of the law, then he cannot turn around and say that no prejudice would be caused to either side by the delay being condoned. This litigation between the parties started sometime in 1981. We are in 2024. Almost 43 years have elapsed. However, till date the respondent has not been able to reap the fruits of his decree. It would be a mockery of justice if we condone the delay of 12 years and 158 days and once again ask the respondent to undergo the rigmarole of the legal proceedings.



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26. The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.



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27. *We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the 'Sword of Damocles' hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.*

xxx xxx xxx

34. *In view of the aforesaid, we have reached to the conclusion that the High Court committed no error much less any error of law in passing the impugned order. Even otherwise, the High Court was exercising its supervisory jurisdiction under Article 227 of the Constitution of India.*

35. *In a plethora of decisions of this Court, it has been said that delay should not be excused as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party. The appellants have failed to prove that they were reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in this case.*



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36. For all the foregoing reasons, this appeal fails and is hereby dismissed. There shall be no order as to costs.”

After referring to the above said decision, the Hon'ble Apex Court observed,

'Applying the above legal proposition to the facts of the present case, we are of the opinion that the High Court correctly refused to condone the delay and dismissed the appeal by observing that such inordinate delay was not explained satisfactorily, no sufficient cause was shown for the same, and no plausible reason was put forth by the State. Therefore, we are inclined to reject this petition at the threshold.'

8. Bearing the above position in mind, let us consider the case on hand. The only reason canvassed is that his earlier counsel, who filed the Civil Miscellaneous Appeal failed to inform about the dismissal of the Civil Miscellaneous Appeal . It is pertinent to mention that the Civil Miscellaneous Appeal was dismissed as early as on 13.10.2023. Even according to the petitioner, the Court Amin came to his house on 28.11.2024 for attaching the



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movables in pursuance of the orders of the Executing Court and only thereafter, he came to know about the dismissal of the Civil Miscellaneous Appeal.

9. As rightly pointed out by the learned counsel for the respondent, it is for the petitioner to remain in contact with his counsel and ascertain the status of the case and he cannot be permitted to place the blame upon his erstwhile counsel. It is pertinent to mention that, of late, it has become a common practice to attribute every lapse to the advocate concerned. Though the petitioner has alleged that he lost confidence in his earlier counsel, he has neither elaborated the circumstances leading to such loss of confidence nor placed any material to substantiate the said allegation.

10. It is pertinent to mention that the claimants had laid the claim petition seeking compensation as early as in the year 2009. After the Tribunal passed two awards and this Court dismissed two appeals arising therefrom, the petitioner has now invoked the review jurisdiction of this Court seeking to challenge the impugned judgment.



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11. It is not the case of the petitioner that he had taken any action against the earlier counsel, who according to him, was responsible for the inordinate delay. It is well settled that while considering an application under Section 5 of the Limitation Act, the Court is required to examine whether the petitioner has shown sufficient cause for not approaching the Court within the prescribed period of limitation. Though a liberal approach may be adopted in appropriate cases, such discretion cannot be exercised in a routine or mechanical manner, especially when the delay is inordinate and remains unexplained.

12. In a case on hand, as already pointed out, the petitioner has not assigned any valid or acceptable reason or explanation for the delay of 421 days, except attributing the same to his earlier counsel on record. It is pertinent to note that the scope of review jurisdiction is extremely limited. A review is by no means an appeal in disguise and unless there exists an error apparent on the face of the record, discovery of new and important matter or evidence which could not be produced earlier despite due diligence, or any other sufficient reason recognized in law, the power of review cannot be invoked to re-agitate issues that have already been considered and decided.



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13. The main contention of the petitioner in the review application is that the offending vehicle was covered by a valid insurance policy on the date of accident. As rightly contended by the learned counsel for the respondent, the very same plea had been raised before the Tribunal as well as before this Court in the earlier proceedings and this Court, considering the entire evidence available on record, has concurred with the findings of the Tribunal that the offending vehicle had no valid insurance policy on the date of accident and consequently fixing liability on the petitioner.

14. In the present case, even on a *prima facie* consideration of the grounds sought to be raised in the proposed review application, this Court is unable to find any arguable ground warranting review of the earlier judgment. The petitioner is attempting to re-argue the matter on merits, which is impermissible in review proceedings. The grounds raised neither disclose any error apparent on the face of the record nor satisfy any of the legally recognized parameters for entertaining a review petition.



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15. The learned counsel for the respondent would contend that ordinarily a review petition ought to be filed through the counsel who appeared in the main appeal, and that the Hon'ble Apex Court has deprecated the practice of filing review petitions through a newly engaged counsel, with a view to re-agitate issues already concluded.

16. No doubt, there is no legal prohibition against a party engaging a different counsel for filing a review petition. However, merely because the petitioner has chosen to engage a new counsel, the same cannot constitute a ground for reopening matters that have already attained finality. The practice of engaging a new counsel for the purpose of filing a review petition and thereafter attributing blame to the erstwhile counsel, without any substantiating material, deserves to be deprecated.

17. It is well settled that review jurisdiction cannot be converted into a forum for rehearing the matter or for advancing the very same contentions in a different form or under a different guise. The power of review



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is confined to correcting patent errors and cannot be exercised as though the Court were sitting in appeal over its own judgment.

18. Considering the above, this Court has no hesitation in holding that the petitioners have failed to show any sufficient cause for condoning the inordinate delay of 421 days in filing the review petition and hence, this Court concludes that the above petition is devoid of merits and the same is liable to be dismissed.

19. In the result, the Civil Miscellaneous Petition is dismissed. Consequently, the Review Application is rejected at the SR stage itself. No costs.

12.06.2026

NCC : Yes /No
Index : Yes / No
Internet : Yes / No
das



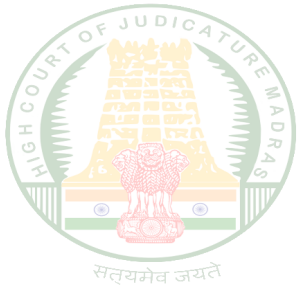
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To

- 1.The Judicial Magistrate No.II,
Kulithalai.
- 2.Motor Accident Claims Tribunal,
Kulithalai.
- 3.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Pre-delivery order made in
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in
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Dated: 12.06.2026