

(2013) 11 MAD CK 0262

In the Madras High Court

Case No : C.M.A.SR.No. 46756 of 2013 and M.P.No.1 of 2013

Managing Director T.N.S.T.C. Limited

APPELLANT

Vs

Ayyanarappan

RESPONDENT

Date of Decision : 26-11-2013

Acts Referred:

Citation : (2014) 2 TNMAC 517

Hon'ble Judges : Mr. P.R.Shivakumar, J.

Bench : Single Bench

Advocate : Mr.S.Sairaman, Advocate, for the Petitioners

Final Decision : Disposed Off

Judgement

Mr. P.R.Shivakumar, J.—M.P.No.1 of 2013 has been filed under the second proviso to Section 173(1) of the Motor Vehicles Act, 1988, praying for an order condoning the delay of 193 days in preferring the unnumbered Civil Miscellaneous Appeal bearing C.M.A.SR.No.46756 of 2013, which is filed against the award of the Motor Accident Claims Tribunal (Subordinate Judge), Gingee dated 28.02.2012 made in M.C.O.P.No.60 of 2007.

2. When this Court came across the certified copies of the judgment and decreetal order filed along with the appeal papers, this Court was shocked to know that though the award came to be passed on 28.02.2012 and the copy application was made on 02.03.2012 itself, the copies were made ready only on 29.08.2012 and delivered on the same day. Since the endorsement on the certified copy does not contain the date on which copy stamps were called for and the date on which the copy stamps were filed, this Court summoned the copy application and the Register of copy application to verify the said particulars.

3. Upon perusing the said records summoned from the Tribunal, this Court was shocked to know that the said copy application was filed for the supply of free copies and the Tribunal took about 6 months for furnishing free copies as against the period of 15 days prescribed in Rule 20 sub-clause (6) of the Tamil Nadu

Motor Accident Claims Tribunal Rules, 1989. Of course, the petitioner cannot be found fault with for not preferring the appeal before getting the certified copies either free of costs or on payment of costs and the petitioner is also entitled to claim exclusion of the period taken by the Tribunal to supply certified copies to the petitioner, in counting the period of limitation. The petitioner cannot be penalized by disallowing the exclusion of the period claimed, for the fault of the Tribunal in delaying the supply of the certified copies to the petitioner. Hence, the petitioner is justified in claiming exclusion of the period from 02.03.2012 to 29.08.2012 for the purpose of calculating the period of limitation.

4. But, the petitioner has not preferred the appeal within 90 days thereafter and in fact, the petitioner took 283 days after getting the certified copies to prefer the appeal and thus, there was a delay of 193 days over and above the period of limitation in preferring the appeal. The reason assigned by the petitioner in the supporting affidavit is that the counsel for the petitioner in the Tribunal forwarded the copy to the petitioner Corporation during the first week of October 2012 and the petitioner Corporation, in the process of getting legal opinion and concurrence of the appeal Committee, took time till 04.06.2013 and then the case was entrusted to the counsel at Chennai to prefer the appeal. The appeal papers were prepared in July 2013 and were filed on 04.07.2013 and thus with a delay of 193 days. The above said reason assigned by the petitioner can hardly be accepted to be a valid reason preventing the petitioner from preferring the appeal in time. Moreover, the petitioner has not explained the entire period of delay with acceptable reasons.

5. For the reasons stated above, this Court comes to the conclusion that the delay in preferring the appeal cannot be condoned and the petition seeking condonation of delay in preferring the appeal deserves to be dismissed. Consequently, the unnumbered Civil Miscellaneous Appeal in C.M.A.SR.No.46756 of 2013 shall stand rejected.

6. Before parting with the case, this Court wants to record its observations regarding the failure on the part of the Tribunals to act in conformity with Rule 20 sub-clause (6) of the Tamil Nadu Motor Accident Claims Tribunal Rules, 1989 and also the tendency of the parties to prefer a copy application so that the time taken for calling for submission of copy stamps, for submitting the copy stamps and for preparing the copies on the stamps papers thus submitted can be excluded and thereby try to get a longer time for filing the appeal availing the benefit of exclusion of the said period taken for getting the certified copies.

7. In this case, the Judgement of the Tribunal came to be pronounced on 28.02.2012. Sub-Rule (6) of Rule 20 of Tamil Nadu Motor Accident Claims Tribunal Rules, 1989 reads as follows:

"The Claims Tribunal shall, within fifteen days from the date of award, issue copy of award and decretal order, if any, for all parties to the claims free of costs."

8. A proper interpretation of the said rule will make it clear that the furnishing of

such copies free of costs to all the parties to the claim irrespective of the fact whether an application for the supply of copies has been filed or not, has been made mandatory. In this case, though an application for the said purpose came to be filed within 2 days after the pronouncement of the award, the Tribunal took nearly 6 months to supply copies of the judgment and the decretal order. Shocked by the inordinate delay in furnishing copies, this Court summoned the copy application and the Register relating to the same for verification. On such verification, it is found that the Tribunal concerned has shirked its responsibility of furnishing order copies of the judgment and the decretal order to the parties to the claim within 15 days after the passing of the award without insisting upon filing a copy application for the said purpose. Even for furnishing free copy in accordance with the said rule, the Tribunal seems to have insisted upon filing applications and flouted the rule by causing a delay of about 6 months for furnishing the copies as against the period of 15 days prescribed in the rule.

9. Yet another trend this Court noticed in many appeals preferred against the awards passed by the Motor Accident Claims Tribunals is to apply for regular certified copies and to file an appeal after the supply of certified copies on stamp papers, thereby excluding the period taken for the preparation and supply of certified copies for the purpose of calculating the period of limitation to file the appeal. The legislature in its wisdom has chosen to prescribe the shortest possible time for the disposal of the claim cases. The object of the above said rule shall also be in furtherance of the principle of bringing about a finality to the litigation in motor accident claims without causing any avoidable delay. The same is the reason why the rule prescribes 15 days period for furnishing copies free of charge to all the parties to the claim, so that the award amount can be recovered at the earliest possible. In the event of any of the parties to the claim feeling aggrieved by the award, such party can also prefer an appeal within the period of limitation prescribed by the statute, in which case the period to be excluded shall be the maximum of 15 days, if the rule is applied in its letter and spirit. The very object sought to be achieved by the rule is frustrated by the practise of applying for certified copies, taking more time to deposit copy stamps, waiting for the preparation of the certified copies on copy stamps and then file the appeals excluding the period taken for getting such certified copies. Such a practise, apart from one being not intended by the rule, can also be viewed as a device to purchase more time for filing appeal. The Tribunals are also helping the litigants in this regard, by insisting upon filing a copy application for the supply of free copies under Rule 20 (6) of the Tamil Nadu Motor Accident Claims Tribunal Rules, taking more time than the time stipulated in the said rule, furnishing the copies belatedly and thereby permitting such party to claim exclusion of the period taken by the Tribunal for the supply of copies.

10. Hence, I am of the considered view that the above said Rule 20(6) of the Tamil Nadu Motor Accident Claims Tribunal Rules, 1989 shall be scrupulously followed by the Tribunals without any exception, so that the parties preferring an appeal can claim exclusion of the said period alone for the purpose of counting

the limitation.