
(2004) 12 MAD CK 0123
In the Madras High Court

P. Pachiyappan

APPELLANT

Vs

R. Palanisamy and Others

RESPONDENT

Date of Decision : 02-12-2004

Acts Referred:

Citation : (2005) 3 ACC 716 : (2005) 1 LW 569

Hon'ble Judges : P. Sathasivam, J;A.R. Ramaligam, J

Bench : Division Bench

Judgement

P. Sathasivam, J.—The claimant is the appellant. He filed the claim petition praying for compensation of Rs. 50,000/- before the Motor Accident Claims Tribunal at Erode. It is further seen that the said petition was returned by the Court below for rectifying certain defects. However, the same was represented with a delay of two years and six months. For condonation of the said delay, the claimant has filed LA. No. 1668 of 1995. By the impugned order dated 1668 of 1995. By the impugned order dated 12.3.1996, the Tribunal after holding that the delay in representation is abnormal, refused to accept the stand taken by the claimant and dismissed the said petition. Against which the present appeal has been filed.

2. In the appeal, though the driver, owner and the Insurance Company were duly served notice from this Court, none of them contested the appeal by engaging a Counsel.

3. Heard the learned Counsel appearing for the appellant/claimant.

4. It is seen from the materials placed before the Tribunal that the accident occurred on 25.4.1992 and the claim petition was presented before the said Court on 26.10.1992, within one year from the date of accident. The said petition was returned on 29.11.1992 for rectification of certain defects. However, the claimant represented the said petition only on 28.4.1995. It is further seen that the said petition was again returned on 12.6.1995 with a request to file a petition to excuse the delay. In the said petition, the claimant has stated that after return

of the papers from the Court, the bundle was mingled with other papers and, therefore, the claim petition could not be represented in time. The Tribunal has not accepted the stand taken by the claimant.

5. On going through the reasons stated in the affidavit filed in support of LA. No. 1668 of 1995 and of the fact that the petitioner therein being injured claimant in the accident and also of the fact that the delay is only in representing the claim petition, as well as the Tribunal has committed an error in not accepting the plea made by the petitioner therein, we are inclined to accept the stand taken by the petitioner and condone the delay in representation. Accordingly, we set aside the impugned order dated 12.3.1996 made in LA. No. 1668 of 1995. The Tribunal is directed to number the claim petition if the same is otherwise in order and dispose of the same within a period of six months from the date of receipt of a copy of this order, after affording an opportunity to all the parties concerned.

In the result, the Civil Miscellaneous Appeal is allowed. No costs. It is made clear that in the event of award being passed in the claim petition referred to above, it is for the Tribunal to decide whether the claimant is entitled for interest from the date of the petition or from the date on which the O.P. is numbered and taken on file.