

(1987) 07 MAD CK 0029
In the Madras High Court

R. Gopal Shenoy	Vs	APPELLANT
Pallavan Transport Corporation Ltd.		RESPONDENT

Date of Decision : 08-07-1987

Acts Referred:

Citation : (1988) ACJ 1036 : (1987) 2 MLJ 448

Hon'ble Judges : S. Swamikkannu, J

Bench : Single Bench

Judgement

S. Swamikkannu, J.—No counter filed in the civil miscellaneous petition No. 7678 of 1987 though twice time had been granted for the filing

of the counter. The Petition is therefore allowed. The document is marked as Ex. P1 and transmitted to the Tribunal for consideration while

disposing of the M.P. No. 698 of 1980.

2. The appeal is also taken up for disposal to-day. This is an appeal against the order dated 10.7.1980 in M.P.No. 698 in O.P.S.R. No. 7647 of

1980 on the file of the Motor Accidents Claims Tribunal at Madras. The said application was filed to condone the delay of 407 days in filing the

M.P. for compensation for injuries, sustained in the road accident. In the affidavit, the petitioner-appellant herein stated that he was in-patient in the

hospital from the date of the accident namely from 16.9.1978 and that he was discharged only on 4.4.1980. It is stated that the delay of 407 days

had occurred on account of the same. Now Ex. P1 Hospital chit has been marked as per order in C.M.P.No. 7678 of 1987 dated 8.7.1987.

3. The Tribunal had held that nothing prevented the petitioner-appellant herein from filing an application through his authorised agent. Whether any

agent can be employed at all is a matter which ought to have occurred to the

mind of the Tribunal before actually observing in the said manner. This Court has seen the petitioner-appellant in open Court. Learned Counsel for the appellant Mr. S. Gangaram Prasad, has shown the leg of the appellant and submitted that the wound sustained by the appellant during the time of the occurrence is not yet healed i.e. even after 9 years. Therefore, according to him, this describes the, gruesome nature of the wound sustained by the appellant herein during the time of the occurrence which made the appellant to get a permanent treatment for about a year and more. Soon after the discharge from the hospital as seen from Ex. P1, the petitioner-appellant herein had taken sufficient steps to institute the petition in time. Therefore, it may look that for a long period he had not been facilitated to file an application u/s 110-A of the Motor Vehicles Act, yet the fact remains that soon after the discharge from the hospital as an in-patient, he had taken sufficient steps and any delay caused in the meanwhile has to be necessarily condoned. The reason offered by the Tribunal for rejecting the prayer made in the petition is not adequate so as to reject the petition for condoning the delay. Hence the appeal is allowed. The delay is condoned. The Tribunal is directed to take the petition on file and dispose of the same within 3 months from the date of the receipt of the records from this Court, in accordance with law, after giving opportunities to both sides to let in evidence, both oral and documentary. Court fee to be refunded. No costs.