

GAHC010032232019



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/589/2019

THE NATIONAL INSURANCE COMPANY LIMITED
REGISTERED HEAD OFFICE AT 3, MIDDLETON STREET, CALCUTTA 700071
REPRESENTED BY THE ASSTT. MANAGER, GAUHATI REGIONAL OFFICE,
BHANGAGARH, GUWAHATI 781005

VERSUS

SMTI LILIMAI MADUR AND ANR
W/O LATE ROHIT MADUR, VILL. MARTENGAON, P.O. LAW PANI, P.S.
KACHUA, DIST. NAGAON, ASSAM, PIN 782425 PRESENT ADDRESS SMTI
LILIMAI MADUR, C/O BALEN INGTI, VILL. SALIGAON, P.O. AHATGURI, P.S.
DHARAMTUL, DIST. MORIGAON (ASSAM), PIN 782105

2:MD. GIAS UDDIN
S/O LATE AZIM UDDIN
VILL. SUNARBALI
P.O. AND P.S. SAMAGURI
DIST. NAGAON
ASSAM
PIN 78214

Advocate for the Petitioner : MS. R D MOZUMDAR

Advocate for the Respondent : MR. M TALUKDAR (r-1)

Linked Case :

THE NATIONAL INSURANCE COMPANY LIMITED

VERSUS

SMTI LILIMAI MADUR AND ANR

Advocate for :
Advocate for : appearing for SMTI LILIMAI MADUR AND ANR

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
ORDER

22. 02. 2023

Heard Ms. RD Mozumdar, learned counsel for the applicant.

2. This is an application for condonation of delay of 305 days in preferring the connected appeal against the judgment dated 21.07.2017 passed by the learned MACT, Morigaon in MAC Case No. 27/2014 (D). The causes of delay are being explained at paragraph Nos. 3 to 8, which basically shows that though the judgment was passed on 21.07.2017, the Insurance Company could learn the same on 22.02.2018 and certified copy was provided by the engaged counsel on 26.07.2018. Thereafter, the file was put for approval on 26.07.2018 and the same was granted on 30.07.2018 and in the meantime, the delay was caused.
3. The claimant has filed an objection to the delay condonation application contending that the company has failed to explain why 7 months were taken for getting a legal opinion to prefer an appeal from the date of passing of judgment and there is no day to day explanation.

4. The Insurance Company has also filed an additional affidavit contending that this court by order dated 14.09.2022 taking note of the alleged fraud has directed to obtain the extract copy of GD No. 866, 867 and 868 dated 31.12.2013 and same has been annexed with the additional affidavit and with a further contention that one investigator was appointed to investigate and who has provided certified copy of the GD and opined that there were manipulation.
5. Be that as it may, though the Insurance Company has not explained the delay day to day, however, considering that the delay is not inordinate, and the reasons shown are probable reasons in an administrative set up.
6. Accordingly, this court is of the view that ends of justice would be made, if the delay is condoned in the given facts of the case and the appellant is given an opportunity to exercise his right of appeal.
7. In view of the above, the IA stands allowed by condoning the delay of 305 days in preferring the connected appeal.
8. Registry to register the connected MAC Appeal and list it for admission showing the name of Mr. Talukdar, learned counsel as the counsel for the claimant.

JUDGE

Comparing Assistant