

GAHC010109212021



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

Case No. : I.A.(Civil)/2662/2022

NATIONAL INSURANCE CO. LTD.
REGISTERED HEAD OFFICE AT 3, MIDDLETON STREET, CALCUTTA 700071,
REPRESENTED BY THE A.O GAUHATI REGIONAL OFFICE, BHANGAGARH,
GUWAHATI , KAMRUP M ASSAM 781005

VERSUS

KAMRUL ISLAM AND 3 ORS.
S/O LATE RAFIQUE UDDIN,
RESIDENT OF VILLAGE BILBARI, PO ANIPUR, PS RAMKRISHNANAGAR,
DIST KARIMGANJ ASSAM, 788734

2:CHAYARUN NESSA
W/O KAMRUL ISLAM

RESIDENT OF VILLAGE BILBARI
PO ANIPUR
PS RAMKRISHNANAGAR
DIST KARIMGANJ ASSAM
788734

3:MD. NIJAM UDDIN.
S/O LATE ABDUL HACHIB

RESIDENT OF VILLAGE JUBARAJNAGAR (MANGALKHALI)
NEAR KRISHNAPUR BAZAR
PO AND PS DHARMANAGAR
DIST NORTH TRIPURA
TRIPURA
799250

4:MD. MAMTAJ ALI

S/O LATE SARIP ALI

RESIDENT OF VILLAGE EAST BATARASHI
PO AND PS DHARAMNAGAR
DIST NORTH TRIPURA
TRIPURA
79925

Advocate for the Petitioner : MS. R D MOZUMDAR

Advocate for the Respondent : DR. B AHMED (r-1,2)

In

MACApp. No. 6035/2021 (Filing Number)

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

31.05.2023

Heard Ms. R.D. Mozumdar, learned counsel appearing for the applicant.
Also heard Mr. A.K. Azad, learned counsel for the respondent nos. 1 and 2.

This is an application under Second Proviso to Section 173 of the M.V. Act, 1988 and under Section 5 of Limitation Act, 1963 praying for condoning the delay of 346 days in filing the connected MAC Appeal.

It is submitted by the learned counsel for the applicant that on 04.01.2019, compensation of Rs. 50,000/- (Rupees Fifty Thousand) only was granted to the claimant without hearing the applicant side and after receiving the notice on 04.02.2019, they appeared before the learned Member, MACT with an petition stating that the handy-man was not covered under the policy and an

objection was filed on 25.10.2019. However, the petition was rejected by the learned Member, MACT and thereafter obtaining the certified copy and after some legal formalities, the present appeal has been preferred by the applicant. However, as per the guidelines of Hon'ble Apex Court, the period of limitation was extended w.e.f. 15th March 2020 and again on 14.03.2021 for another period of 90 days. Hence, there is no intentional delay or laches on the part of the applicant to file the present appeal and due to above mentioned reasons, the appeal could not be filed within the statutory period of limitation.

In this context, the learned counsel for the respondent nos. 1 and 2, Mr. Azad has submitted that altogether there are 837 days delay. However, after excluding the extended period of Limitation by the Hon'ble Apex Court, there was a delay of 346 days which was not explained by the applicant and the grounds of delay taken by the applicant is not at all sufficient and reasonable.

Moreso, the Insurance Company was not a participant in CAA or CAB movement as stated by the learned counsel for the applicant.

In this context, the learned counsel for the applicant has submitted that being the Insurance Company, they have not participated in CAA or CAB, but the learned counsel who was to appear for the applicant was definitely affected by CAA or CAB.

Considering the submissions made by the learned counsel for the parties and the grounds of delay explained in the petition, I find that the grounds are genuine and the delay is also explained by the learned counsel for the applicant.

Accordingly, I find it justified to condone the delay of 346 days is accordingly.

Petition for condonation is allowed.

Accordingly, the delay stands condoned.

The connected MAC Appeal shall be registered and list it for admission hearing.

The Interlocutory Application stands disposed of accordingly.

JUDGE

Comparing Assistant