

GAHC010219582022



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

Case No. : I.A.(Civil)/3236/2022

PRAMILA THAKURIA
W/O LATE JANTU THAKURIA,
RESIDENT OF GUGAMUKH DHALPURIA, PO AND PS GUGAMUKH, DIST
DHEMAJI, ASSAM

VERSUS

THE ORIENTAL INSURANCE COM. LTD.
GS ROAD, ULUBARI, GUWAHATI 781005

Advocate for the Petitioner : B R DAS

Advocate for the Respondent : MR SISHIR DUTTA

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER

Date : 16-06-2023

Heard Ms. M. Bharati, learned counsel for the applicant. Also heard Ms. S. Mochahari, learned counsel for the respondent.

2. This application is filed under Section 5 of the Limitation Act, 1963 read with Section 151 of Civil Procedure Code, praying for condonation of delay of 2477 days.

3. Ms. M. Bharati, learned counsel for the applicant has submitted during the last part in 2013 to first part of 2018, the applicant/claimant was busy in taking care of her old ailing mother-in-law and father-in-law, both were suffering from serious ailment, and thus for this reason, she was not able to appear before the Court, during the last part of the hearing. However, she was also not aware of the date of Judgment and Award, which was passed by the learned Member of Motor Accident Claim Tribunal, Lakhimpur, Assam in MACT. Case No.33/2012, whereby the learned Tribunal directed the respondent to make payment of Rs.7,29,500/-(Rupees Seven lakhs twenty-nine thousand) only with interest 7.5% P.A. interest from the date of filing till to payments.

4. It is also submitted that the applicant/claimant was not aware of the provisions or the limitation under which the appeal is to be preferred and also due to covid-19, she was prevented from making any contact with the counsel. There is no any intentional negligence or lapses on the part of the applicant. She also submitted that after receiving the certified copy, she had engaged one advocate namely, Mr. Nitula Sharma on 15.05.2021, but the learned Advocate did not pursue the matter till September 2022, and thereafter, she engaged the new counsel and accordingly, this interlocutory application has been filed to condone the delay of 2477 days in preferring the connected appeal.

5. In this regard, the learned counsel for the respondent, Ms. S. Mochahari has submitted that the applicant has not provided the proper explanation regarding the delay of 2477 days in preferring the connected appeal. Further, it is submitted that the award was passed in the year 2013, but, the certified copy

was issued in the year 2018, i.e. after 5(five) years of gap. Thus, the delay is seems to be intentional. She further prayed that the respondent may be exempted from paying the interest for period of delay, if condoned, excluding the period between 15.03.2020 to 28.02.2022 as per guidelines of the Hon'ble Apex Court.

6. So, considering the submissions made by the learned Advocates of both sides, I find it justified to allow the condonation of delay of 2477 days in preferring the present appeal, however, as per the guidelines provided by the ***Hon'ble Supreme Court in the case of Misc.App. Case No.21/2022***, it is an admitted fact that the delay to be excluded from the date of 15.03.2020 to 28.02.2022. Accordingly, the respondent is exempted to pay the interest accrued for the period of delay excluding the period between 15.03.2020 to 28.08.2022 with the interest rate so provided in MACT. Case No.33/2012, passed by the learned Member of Motor Accident Claim Tribunal, Lakhimpur, Assam.

7. With the above observation, this instant interlocutory application stands allowed and disposed of.

8. The connected MAC.App. Case No.12926/2022 be accordingly registered and numbered.

9. Registry will do the needful

JUDGE

Comparing Assistant