

GAHC010266832022



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

Case No. : I.A.(Civil)/3850/2022

NATIONAL INSURANCE COMPANY LTD.
HAVING ITS REGISTERED OFFICE AND HEAD OFFICE AT 3, MIDDLETON
STREET, KOLKATA AND ITS REGIONAL OFFICE AT BHANGAGARH, GS
ROAD, GUWAHATI 781005 REPRESENTED BY THE CHIEF REGIONAL
MANAGER, GUWAHATI REGIONAL OFFICE

VERSUS

KHATEZA BIBI AND 10 ORS.
W/O LATE RAHMAN ALI,
RESIDENT OF VILLAGE ALAMGANJ, PART IX (PAHARTOLI) PS GAURIPUR,
DIST DHUBRI, ASSAM 783339

2:MAMTAZ BIBI
W/O LATE RAHMAN ALI

RESIDENT OF VILLAGE ALAMGANJ
PART IX (PAHARTOLI) PS GAURIPUR
DIST DHUBRI
ASSAM 783339

3:KHAIRUL ISLAM
S/O LATE RAHMAN ALI

RESIDENT OF VILLAGE ALAMGANJ
PART IX (PAHARTOLI) PS GAURIPUR
DIST DHUBRI
ASSAM 783339

4:ROMISHA BIBI
D/O LATE RAHMAN ALI

RESIDENT OF VILLAGE ALAMGANJ
PART IX (PAHARTOLI) PS GAURIPUR
DIST DHUBRI
ASSAM 783339

5:AMENA BIBI
D/O LATE RAHMAN ALI

RESIDENT OF VILLAGE ALAMGANJ
PART IX (PAHARTOLI) PS GAURIPUR
DIST DHUBRI
ASSAM 783339

6:RASHIDA KHATUN
D/O LATE RAHMAN ALI

RESIDENT OF VILLAGE ALAMGANJ
PART IX (PAHARTOLI) PS GAURIPUR
DIST DHUBRI
ASSAM 783339

7:SRI GAUTAM SENGUPTA
S/O DIRENDRA SENGUPTA

RESIDENT OF WARD NO. 6
CHATANTALA
PS DHUBRI DIST DHUBRI
ASSAM 783301

8:SRI LAL CHAND MULLAH
S/O BAKKAR MULLAH

RESIDENT OF VILLAGE AIRANJONGLA NEW GHAT
PS AND DIST DHUBRI
ASSAM 783301

9:UNITED INDIA INSURANCE CO. LTD.
G.T.B ROAD
DHUBRI BRANCH
PO AND DIST DHUBRI
ASSAM 783301

10:MD. ALI AKBAR

S/O LATE TALEB ALI
RESIDENT OF HOUSE NO. 37
HATIGAON
SIJUBARI DARGAH ROAD

GUWAHATI KAMRUP M ASSAM 781038

11:MD. AYNUL HOQUE
S/O MAKTER ALI

RESIDENT OF VILLAGE DAMPUR
PART I
PS GAURIPUR
DIST DHUBRI
ASSAM 78333

Advocate for the Petitioner : MR T KALITA

Advocate for the Respondent : MR. A SHAKIL (1 TO 5)

Linked Case :

NATIONAL INSURANCE COMPANY LTD.

VERSUS

KHATEZA BIBI AND 10 ORS. F

Advocate for : MR T KALITA

Advocate for : appearing for KHATEZA BIBI AND 10 ORS. F

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

Date : 27-06-2023

Heard Mr. T. Kalita, learned counsel for the applicant. Also heard Mr. M. Talukdar, learned counsel for the respondent Nos.1 to 5.

This is an application filed under Section 5 Section of the Limitation Act, 1963, *read with* Section 173 of the Motor Vehicle Act, 1988 praying for condoning the delay of 96 days in filing the appeal against the Judgment and Order dated 09.06.2022, passed by the learned Member, Motor Accident Claims Tribunal, Dhubri in M.A.C. Case No. 70/2015.

It reveals from the Office Note dated 23.06.2023 that the service of notice upon the respondent No.10 has not yet been completed.

In this context, the learned counsel for the applicant, Mr. T. Kalita has submitted that the respondent No. 10 is the owner of the vehicle and is not a necessary party in this case and accordingly, prays for striking out the name of respondent No. 10 from the Cause Title of the memo of appeal. He also submitted that the delay of 96 days in filing the memo of appeal was due to the physical movement of files and papers from the Branch Office, Dhubri to the Divisional Office at Bongaigaon and then to the Guwahati Regional Office, which is properly mentioned in paragraph 3 & 6 of the application.

In this context, Mr. M. Talukdar, learned counsel for the respondent Nos.1 to 5 has submitted that he has no objection if the delay of 96 days in preferring the connected Appeal is condoned.

Considering the submissions of learned counsels appearing on behalf of respondent Nos. 1 to 5 and also considering the grounds mentioned in paragraph 3 & 6 of the application as well as for the ends of justice, this Interlocutory Application stands allowed and the delay of 96 days in preferring the connected Appeal is hereby condoned.

Accordingly, the name of respondent No. 10 be struck off from the Cause Title of the memo of appeal at the risk of the applicant.

Registry to register the connected MAC Appeal and list the same for Admission hearing after Summer Vacation.

The Interlocutory Application stands disposed of in terms above.

In the meantime, the Registry is also asked to reflect the name of Mr. M. Talukdar, learned counsel for the respondent Nos. 1 to 5 in the cause title of memo of appeal.

JUDGE

Comparing Assistant