

GAHC020001132023



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

Case No. : I.A.(Civil)/37/2023

THE ORIENTAL INSURANCE COMPANY LTD
HAVING ITS REGISTERED AND HEAD OFFICE
AT ORIENTAL HOUSE A-25-27, ASAF ALI ROAD NEW DELHI-11002
AND REGIONAL AND DIVISIONAL OFFICES IN SEVERAL PLACES,
INCLUDING A REGIONAL OFFICE AT GUWAHATI,
ASSAM AND A DIVISIONAL OFFICE AT DIMAPUR, IN THE STATE OF
NAGALAND

VERSUS

SMT. NIVA GOGOI AND 2 ORS
W/O SRI. AMRIT KR. GOGOI, R/O QUARTER NO. 16A,
ASSAM STATE ZOO COMPLEX, R.G BARUAH ROAD,
P.S GEETANAGAR, PIN-781021, GUWAHATI, KAMRUO-M, ASSAM

Advocate for the Petitioner : V. DEVNATH

Advocate for the Respondent :

Linked Case : I.A.(Civil)/38/2023

THE ORIENTAL INSURANCE CO. LTD
HAVING ITS REGISTERED AND HEAD OFFICE
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R.G. BARUAH ROAD
P.S. GEETANAGAR
PIN-781021 GUWAHATI
KAMRUP-M
ASSAM

Advocate for : V. DEVNATH

Advocate for : appearing for SMT. NIVA GOGOI AND 2 ORS

Linked Case : MACApp./1/2023

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PIN- 781021
GUWAHATI
KAMRUP-M
ASSAM

2:SHRI. MIRAJUL ALEM
S/O MANSER ALI

R/O H.NO- 45
MANDAKINI PATH
KALYANPUR
GANESHGURI
PIN-781006
- OWNER OF HERO MAESTRO SCOOTY AS-01-BW-3784

3:SHRI. SUBHASH SINGHA
S/O LATE BINOD BEHARI SINGHA
R/O PADMERPAR PAITUR BAZAAR
P.O AND P.S-KAILASHSAHAR
UNAKOTI. PIN-799279.
DIST-TRIPURA-
DRIVER OF HERO MAESTRO SCOOTY AS-01-BW-3784

Advocate for : V. DEVNATH
Advocate for : TONGPOK PONGENER
appearing for SMT. NIVA GOGOI AND 2 ORS

**BEFORE
HONBLE MR JUSTICE KARDAK ETE**

ORDER

Date : 12-09-2023

Heard Mr. V. Devnath, learned counsel for the applicant and Ms. T. Atalu Chizo, learned counsel for respondent No. 1.

By filing this application under Section 5 of the Limitation Act, 1963, the applicant is praying for condonation of delay of 124 (one hundred and twenty-four) days in filing the connected MAC appeal. The applicant has averred the cause of delay at para 8 which is reproduced herein below:-

"8. That the appellant has a Divisional Office at Dimapur in the state of Nagaland. It has a Regional Office in Guwahati, Assam. The Appellant's Divisional office on receipt of the Judgment dated 29.08.2022 from Motor Accident Claims Tribunal, Mokokchung on 09.09.2022, forwarded the same along with file to one of its penal counsel based at Dimapur on 12.09.2022, to obtain legal opinion, the counsel furnished his legal opinion to preferred appeal against the impugned

judgment and returned the file to the company on 13.09.2022. The Divisional Office forwarded the entire file to its Regional office in Guwahati, Assam on 19.09.2022 for approval/advice in preferring the appeal. The appellant's Regional Office on receipt of the entire file forwarded the file to its penal advocate at Guwahati for obtaining the legal opinion. The appellant's Sr. counsel based at Guwahati furnished the legal opinion on 10.10.2022 to the Regional Office. The appellant's Regional Office through Dy. Manager, dated 19.10.2022 forwarded the file to the appellant's Divisional Office to prefer appeal before the Hon'ble Gauhati High Court (Kohima Bench). The appellant's Divisional office on receipt of the entire claim file from the Regional Office on receipt of the entire claim file from the Regional Office forwarded the file to the penal counsel at Dimapur vide a letter Deptt: legal, dated 21.10.2022 for preparation and filling of appeal against the impugned judgment and order dated 29.08.2022 as advised by the Regional Office. However, the applicant's counsel in the meantime was indisposed due to typhoid and was not able to attend his chamber. The period of appeal being 90 days from the date of judgment dated 29.08.2022 it expired on 27.11.2022. The applicant's counsel was in New Delhi for his mother's treatment from 18.12.2022 to 10.02.2023. It is also pertinent to state that unfortunately the left elbow of the applicant's counsel fractured on 19.02.2023, as a result, he is indisposed for a month and could attend the chamber regularly. Accordingly, the applicant's penal counsel after a short recovery prepared the MAC appeal and connected interlocutory petitions and forwarded the same to the applicant's Divisional Office in Dimapur on 06.03.2023. The instant appeal was finally filed on 30.03.2023. Thus, there has been a delay of 124 days in filing the instant appeal and the delay has been caused due to the reason stated above and not due to willful negligence or default on the part of the appellant company, as such, the said delay in filing the appeal may be condoned."

The learned counsel for respondent No. 1 has no objection to the prayer for condonation of 124 (one hundred and twenty-four) days in filing the connected MAC appeal.

Having perused the explanation/cause this Court is satisfied that sufficient cause for the delay in filing the connected MAC appeal has been shown which prevented the applicant/appellant to file the connected appeal, therefore, the delay of 124 (one hundred and twenty-four) days in filing the connected MAC appeal is hereby condoned.

The I.A. is disposed of.

Sd/-
JUDGE

Comparing Assistant