

GAHC020005922021



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

Case No. : I.A.(Civil)/103/2021

THE ORIENTAL INSURANCE CO. LTD
DIMAPUR NAGALAND

VERSUS

ACHAJA @ ASMA KHATUN AND 6 ORS
TULI TOWN, A.M. ROAD MOKOKCHUNG

2) AZBAHARUL HAQUE
R/O VILL. NO. 2, BORCHALA, P.O. BORCHALA,
P.S. NORTH LAKHIMPUR ASSAM

3) MISS ASBINA BEGUM
R/O VILL. NO. 2, BORCHALA, P.O. BORCHALA,
P.S. NORTH LAKHIMPUR ASSAM

4) MD. MEHFUL ALAM
R/O VILL. NO. 2, BORCHALA, P.O. BORCHALA,
P.S. NORTH LAKHIMPUR ASSAM

5) MD. ABDUL KHALEK
R/O VILL. NO. 2, BORCHALA, P.O. BORCHALA,
P.S. NORTH LAKHIMPUR ASSAM

6) MRS. JAHURA KHATUN
R/O VILL. NO. 2, BORCHALA, P.O. BORCHALA,
P.S. NORTH LAKHIMPUR ASSAM

7) MD. ANARUL ISLAM
R/O VILL. NO. 4, DHARMAPUR, P.O. LALUK, LAKHIMPUR ASSAM

Advocate for the Petitioner : B. DEVNATH

Advocate for the Respondent :

**BEFORE
HON'BLE MR. JUSTICE KAKHETO SEMA**

ORDER

Date : 21-03-2023

Heard Mr. V. Devnath, the learned counsel for the applicant and Mr. Imtiwapang, the learned counsel for the opposite party nos. 1 to 6.

This application has been filed under Section 5 of the Indian Limitation Act, 1963 seeking condonation of delay of 645 (Six hundred forty) days in filing the connected appeal. The grounds explaining the delay has been stated in paragraph- '6' of the application. The said paragraph is reproduced below:

"6. That the applicant has Divisional office in Nagaland. It has a Regional Office in Guwahati, Assam. The applicant's Divisional Office on receipt of the Judgment dated 11.11.2019 from Motor Accident Claims Tribunal, Mokokchung forwarded the same along with file to its penal advocate for legal opinion. The applicant's counsel furnished the legal opinion which was received from the applicant's counsel only on 22.07.2021 due to the pandemic situation prevailing in the State. The applicant's Divisional Office thereafter communicated the matter along with the said legal opinion to its Regional Office on 26.07.2021. The regional office further sought for legal opinion from one of its standing Sr. counsel based at Guwahati and the standing counsel furnished the legal opinion on 18.08.2021. Thus, the applicant regional office vide mail dated 24.08.2021 directed the divisional office to file an appeal and accordingly sent the related documents through courier. Accordingly the applicant's divisional office vide mail dated 03.09.2021 after receiving file from the regional office forwarded the same to the applicant penal counsel based at Dimapur for preparation and filling of appeal against the impugned award dated 11.11.2019 as advised by the regional office. However, the applicant counsel was under medical treatment in Delhi for about 3 months w.e.f. 30th August, 2021. Thus, the appeal along with the connected interlocutory petitions were prepared and forwarded the same to the applicant's divisional office in Dimapur on 16.11.2021. The instant appeal was finally filed on 18.11.2021. The period of appeal being 90 days from the date of Judgment dated 11.11.2019 it expired on 08.02.2020. Thus, there has been a delay of 645 days in filing the instant appeal and the delay has

been caused due to the reason stated above and not due to wilful negligence or default on the part of the applicant company. as such, the said delay in filing the appeal may be condoned."

This Court on perusal of the grounds explaining the delay is satisfied that the applicant has been able to satisfactorily explain the delay. The learned counsel for the opposite party also raises no objection provided the applicant is willing to deposit 50 per cent of the awarded amount. After hearing the parties and on perusal of the application this Court is inclined to condone the delay of 645 days.

The application for condonation is accordingly disposed.

Sd/-
JUDGE

Comparing Assistant