

**HIGH COURT OF TRIPURA
AGARTALA**

**IA No.1 of 2024 in MAC App. No.20 of 2024
MAC App. No.20 of 2024**

Sri Gournanga Rudra Paul

..... Applicant/Appellant(s).

Versus

Sri Nirmal Chandra Das and others

..... Respondent(s).

For Applicant/Appellant (s) : Mr. A. Acharjee, Advocate,
Ms. S. Sarkar, Advocate,
Mr. R. Acharjee, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

22/03/2024

The applicant/appellant has in the interlocutory application taken the plea that though the instant MAC appeal should have been filed on 17.07.2018 i.e. within 90 days but the same could not be filed for a number of reasons as explained in paragraph Nos.5 to 8 of the I.A.

The applicant/appellant met with his earlier appointed counsel on 1st week of August, 2018 and conveyed to him to prefer an appeal. He was asked to arrange some funds. Then on 13.11.2018, he arranged some funds and came to Agartala to meet his lawyer but he was unable to meet with him as he was busy. After that on 29.12.2018, he again came to court to meet his engaged counsel. The learned counsel told him in the 1st week of February, 2019 that the appeal would be preferred before the High Court of Tripura through the lawyer who is practicing there. After that on 02.03.2019, he came to Agartala to meet with his engaged counsel but he could not find him as he was out of station. Thereafter,

the applicant/appellant fell ill due to high fever and he was unable to come to Court as he is a poor man. His source of income has been totally stopped due to road traffic accident. After a long time on 03.05.2019, he came to Court and gathered knowledge that the learned Tribunal had passed meager amount of compensation in his favour. After that on 21.11.2019, he again came to High Court of Tripura and contacted with his engaged counsel who asked him to handover all the relevant documents in connection with the appeal. Thereafter, he handed over all relevant documents to the learned counsel in order to enable him to appear before the High Court of Tripura. After that he contacted the engaged counsel for filing the appeal before the High Court of Tripura on 25.12.2019. Thereafter, he was unable to contact with the engaged counsel till 14.02.2020 due to his wife's illness as she was admitted in the hospital due to high fever for a period of 25 days. In the meantime, Covid-19 intervened. The Apex Court has by an order passed in *Suo Motu Writ Petition (C) No.3 of 2020* allowed the period of Covid from 15.03.2020 till 28.02.2022 to be discounted in counting limitation in any such matter, further 90 days period was allowed in case there was any balance period remaining to expire.

Therefore, the applicant/appellant came to Agartala on 15.07.2022 to enquire about the status of the appeal but his learned counsel was out of station. Again on 18.09.2022, he arranged some money for filing the appeal and met with the previously engaged counsel. Thereafter on 05.12.2022, he was asked to collect the certified copy of the judgment dated 17.04.2018. The applicant/appellant was unable to contact with the previously engaged counsel for collecting certified copy of the judgment. On 08.12.2022, he again applied for certified copy of the judgment dated 17.04.2018 which was ready for delivery on 16.03.2023 and was delivered on 23.03.2023. Then, he met with his engaged

counsel with the certified copy of the judgment dated 17.04.2018 and told him to file the appeal. The applicant/appellant thereafter contacted with the insurance company on 24th May, 2023 for depositing the awarded compensation which the insurance company has assured to deposit. He also approached the opposite party/owner to deposit the award of compensation on 15.06.2023 as he was suffering from huge problems. After that he approached the previously engaged counsel before the High Court. He was unable to communicate with his engaged counsel for a long time due to some land dispute between the neighbor and the applicant/appellant. Again on 09.11.2023, he went to the chamber of the previously engaged counsel to know the status of the appeal but the learned counsel told him that he has not preferred any appeal and previously engaged counsel shall appoint a counsel who shall appear before the High Court of Tripura. After that the applicant/appellant contacted with the counsel who shall appear before the High Court of Tripura and on 21.01.2024, he handed over all the relevant documents to the counsel for filing the appeal which was drafted on 10.03.2024 and has been filed on 20.03.2024.

Learned counsel for the applicant/appellant submits that the award is too meager for the injury sustained by the applicant/appellant. It was also does not account for the pain and suffering not only to the applicant/appellant but to his family members during the period of his treatment in hospital. The monthly income of Rs.6000/- claimed by the applicant/appellant has also been disbelieved and his income for assessing compensation for confinement due to injury has been assessed @Rs.3000/- per month though the applicant/appellant was aged 34 years in the year 2003. It is submitted that the applicant/appellant being poor could not arrange the money within time. He was suffering from illness for some period and his wife was also suffering from illness for some period. He further

submits that the applicant/appellant had all along been trying to contact his learned counsel for filing an appeal before this Court but there had been lapses on the part of the counsel earlier as the appeal could not be filed within time. If the period of Covid delay is discounted, the delay is not so huge. Therefore, the delay may be condoned.

I have given anxious consideration to submissions of the learned counsel for the applicant/appellant and also gone through the explanation furnished by him as has been narrated in detail in the forgoing paragraphs. This Court finds that the impugned award was delivered on 17.04.2018 by the Motor Accident Claims Tribunal No.1, West Tripura, in T.S (MAC) No.281 of 2013 but the present appeal has been preferred on 20.03.2024 i.e. almost six years after passing of the award. Applicant/appellant has taken the plea of his illness and his wife's illness for different periods which is not supported by any medical prescriptions. He has also taken the plea that he kept on contact with his erstwhile counsel from time to time and even after the Covid period was over but such statements do not inspire confidence in the minds of the Court as it is not expected that a litigant could not take urgent steps for filing an appeal if aggrieved by an award of the Motor Accident Claims Tribunal in case his engaged counsel is not taking diligent steps for filing an appeal over such a period of time. It appears the certified copy of the award has been obtained only on 23.03.2023 even then the appeal has been filed one year thereafter 20.03.2024. This, therefore, appears to be a chance of litigation on the part of the applicant. As such, even considering the beneficial nature of the legislation i.e. Motor Vehicles Act, 1988, it would not be prudent and advisable to condone such a huge delay, even if made on behalf of the claimant for enhancement of the award

of compensation amount. As such, this Court is of the considered view that the delay should not be condoned.

The award has become final after such a long time also from the point of view of the respondents who are the insurance company and the owner. It should not be allowed to be reopened after such a long time at the behest of such a party.

Accordingly, the I.A. is rejected. Consequently, the main appeal also stands dismissed. Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

