

**HIGH COURT OF TRIPURA
AGARTALA**

I.A. No.1 of 2023 in MAC App. No.101 of 2023
MAC App. No.101 of 2023

The Oriental Insurance Co. Ltd.

..... Applicant(s)

Versus

Smt. Manika Bhowmik and others

.....Respondent(s).

For Applicant(s) : Mr. P. Gautam, Advocate.

For Respondent(s) : Ms. Sarama Deb, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

09/02/2024

Heard Mr. P. Gautam, learned counsel for the applicant-appellant and Ms. Sarama Deb, learned counsel for the respondents on the prayer for condonation of delay of 354 days in preferring the instant memo of appeal.

[2] The appeal is preferred by the insurance company against the impugned judgment & award dated 14.07.2022 passed in T.S. (MAC) No.88 of 2019 by the Member, Motor Accidents Claims Tribunal, West Tripura, Agartala (Tribunal No.4) whereby the learned Tribunal has awarded a sum of Rs.20,16,000/- along with 9% simple interest per annum from the date of registration of claim i.e. w.e.f. 23.04.2019 till its realization from the O.P. No.2/appellant herein. The learned Court has also prescribed the mode of disbursal of the amount. The appeal suffers from delay of 354 days for condonation of which I.A. No.1 of 2023 has been filed.

[3] Mr. P. Gautam, learned counsel for the applicant-appellant has referred to the contents of the I.A. and submitted that the delay was not intentional and properly explained.

[4] Ms. Sarama Deb, learned counsel for the respondent has strong objection to the prayer for condonation of delay. She pointed out from the averments of the I.A. that the explanations furnished are also not coherent or in sequence. At paragraph-2 it is stated that the copy of the judgment and award was delivered to the divisional office with opinion by learned counsel for the applicant-appellant on 14.08.2023 when the judgment and award was rendered on 14.07.2022 itself. In paragraph-3, statements have been made that the divisional office at Agartala, on receipt of the case record could not immediately attend the same because of the reason that during his period they were preoccupied with other insurance matters but contrary to their earlier statement they have stated that after going through the entire case record in the last week of January, 2023, i.e. 07 months before, it was handed over by their learned counsel to the divisional office, they forwarded it to their Controlling Regional Office at Guahati for necessary decision. It is submitted that the delay thereafter has been on account of movement of the file from the legal section to regional office and then filing of the appeal before this Court. The claimants have lost their bread earner who was the son of the respondent No.1 and brother of the respondent No.2. They have been fighting for payment of compensation. The award has been delivered in 14th July, 2022 and the appeal has been filed after 354 days of delay without any proper explanation.

[5] I have considered the submissions of the learned counsel for the parties and gone through the averments made in the application for condonation of delay. It appears that the applicant/appellant has not given any reasonable explanation for the delay of 354 days i.e. almost one year. It further surprises the Court that when the copy of the judgment and award was

delivered to the regional office on 14th August, 2023 after one year and one month of the delivery of the award, how could the divisional office go through the entire case record in the last week of January, 2023, i.e. seven months before, and forward it to the controlling regional office for necessary decision. The period of limitation for preferring an appeal is 90 days in such matters. It further appears from the averments made in paragraph-5 of the I.A. that the legal cell of the regional office at Guahati has taken considerable time and attended to the present case record in the last part of 2nd week of May, 2023 and then forwarded the entire case record to Retainer at Guahati in third week of May, 2023 for necessary decision whether the appeal can be preferred or not. It is further stated that the Retainer of the Controlling Regional office at Gauhati could not attend the same because he was preoccupied with his personal briefs. On 10th June, 2023 he instructed the Regional office to prefer an appeal. Thereafter, the same was handed over to the Regional office. The Regional office thereafter applied for certified copy of the judgment and award dated 14.07.2022 in the last week of June, 2023 for preferring an appeal. Such statements do not seem to be coherent to explain the delay. Later explanations also indicates that the learned counsel for the company was busy with other cases.

[6] It appears that the explanation does not provide sufficient cause to condone the delay. The insurer company is manned by a hierarchy of officials who are entrusted to ensure proper and diligent pursuit of legal remedies within the period of prescribed limitation. However, the explanations furnished in the present case do not show due promptitude and diligence on the part of the

applicant in preferring an appeal. Therefore this Court is of the view that no sufficient grounds for condonation of delay application have been made out.

[7] Accordingly, the instant IA is dismissed. Consequently, the main appeal MAC App. No.101 of 2023 also stands dismissed.

Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

