

**HIGH COURT OF TRIPURA
AGARTALA**

**I.A. No.01/2023 in MAC.APP. No.106/2023
MAC.APP. No.106/2023
I.A. No.02/2023 in MAC.APP. No.106/2023**

The Divisional Manager, The Oriental Insurance Company Ltd.

..... Applicant(s).

V E R S U S

Smt. Anju Rani Das & others

.....Respondent(s).

For Applicant(s) : None.

For Respondent(s) : Mr. H.K. Bhowmik, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

25/04/2024

No one appears for the appellant/applicant today. Mr. H.K. Bhowmik, learned counsel, appears for all the respondents.

The appeal suffers from a delay of 809 days for condonation of which I.A. No.01 of 2023 has been filed. By the impugned award dated 01.04.2021 the insurance company has been imposed with a liability to pay sum of Rs.18,00,000/- along with interest @ 9% per annum from the date of filing of the claim petition, i.e. 17.07.2017 till the payment of the liability. The applicant has taken the plea that petitioner's office was very busy to arrange the file of the claims case for the Lok Adalat and after receipt of the impugned award dated 01.04.2021 it was forwarded to the learned counsel for opinion. After going through the entire official records and the award, the appellant-petitioner being an officer in the Legal Hub of the Agartala Divisional Office thought it convenient to seek instructions from the Regional Office, Guwahati which is the higher authority and the entire office file along with the impugned judgment and award was sent to the Regional Office. Regional Office sent it to

their counsel for taking legal opinion. Thereafter, the entire file was returned to the Agartala Divisional Office and handed over to the present counsel. After dealing with the case records, learned counsel advised the dealing officer of the company to obtain certified copy of the said award along with necessary documents. Discussions were made also with the present counsel but it could not be completed as he was pre-occupied. It is also stated that the pandemic prevailed in the country and the movements of human beings were restricted. Applicant has also relied upon the order of the Apex Court in Writ Petition (Civil) No.03 of 2020 in the matter of extension of limitation during COVID period. Therefore, there is no deliberate delay or laches on the part of the appellant in preferring the instant appeal. The appeal is barred by delay of 809 days commencing from 01.07.2021 till 16.10.2023 excluding the period of 90 days as per the Limitation Act.

Written objection on behalf of the respondent-claimant has been filed to the delay condonation petition.

Mr. H.K. Bhowmik, learned counsel for the respondents, submits that there is no worthwhile explanation as to why even after the extended period of limitation came to an end on 28.02.2022 the appeal was filed in October, 2023. All the explanation furnished by the applicant is, therefore, mere paper explanation. Appellant is not diligent in executing the appeal, therefore, it may be rejected. It is also submitted that steps for execution of the award has been taken and decree holder has been directed to take steps for issuing certificate for the realization/recovery of the awarded amount as back as 20.03.2023. As such, the appeal may be dismissed on grounds of delay.

On consideration of the application and the grounds urged, this Court finds that the award is dated 01.04.2021 rendered by the learned Motor Accident Claims Tribunal No.5, West Tripura, Agartala in T.S.(MAC) No.133 of 2017. The appeal ought to have been filed within 90 days as per the period of limitation. Even discounting the period of COVID delays in terms of the order of the Apex Court in Suo-motu Writ Petition(Civil) No.03 of 2020 the same came to an end on 28.02.2022. The appeal was filed on 31.10.2023. Such delay has not been properly explained. Mere movement of file or alleged grounds of consultation with the counsel does not relieve the applicant-appellant insurance company for being diligent and prompt in prosecuting the appeal if so aggrieved by the impugned award. As such, this Court does not find sufficient cause made out for condoning the delay. Accordingly, the delay condonation petition [I.A. No.01 of 2023] stands dismissed.

Consequently, the MAC.APP. No.106 of 2023 and the stay application [I.A. No.02 of 2023] also stand dismissed.

(APARESH KUMAR SINGH), CJ

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