

GAHC010025522016



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

Case No. : I.A.(Civil)/1428/2016

NIPESH DAS and 2 ORS,
S/O JOGENDRA DAS

2: SANJAY DAS

3: SAMAR DAS

BOTH THE APPELLANT NOS. 2 and 3 ARE MINOR SONS OF SRI NIPESH DAS I.E.

THE APPELLANT NO. 1 AND BEING THEY ARE MINOR
THEY WILL BE REPRESENTED BY THEIR FATHER SRI NIPESH DAS I.E.
THE APPELLANT NO.

VERSUS

KAMALESWAR DEKA and 2 ORS,
OWNER OF THE VEHICLE, S/O LATE HANSHANATH DEKA, R/O ULUBAM,
MALIKUCHI, P.S. KHETRI, DIST. KAMRUP, ASSAM.

2:MD. MUKTAR HUSSAIN

DRIVER OF THE VEHICLE S/O ABDUL JALIL
R/O PALASHBARI
P.S. JAGIROAD
DIST. MORIGAON
ASSAM.

3:THE ORIENTAL INSURANCE CO. LTD.

REPRESENTED BY THE REGIONAL MANAGER
ULUBARI
GUWAHATI-7
DIST. KAMRUP
ASSAM

Advocate for the Petitioner : MS.S S SAIKIA

Advocate for the Respondent :

Linked Case :

SRI NIPESH DAS and 2 ORS

VERSUS

SRI KAMALESWAR DEKA and 2 ORS

2:MD. LABIDUN NUR AHMED

S/O NAWABUDDIN AHMED
VILL. AZAD ROAD
BHATIPARA
DIST. and P.S. GOALPARA
ASSAM.

3:MD. JIAUL HAQUE

S/O A.K. HAQUE
VILL. KISMATPUR
GOALPARA TOWN
P.O. BOLADMARI
DIST. and P.S. GOALPARA
ASSAM.

Advocate for : MS.S S SAIKIA

Advocate for : appearing for SRI KAMALESWAR DEKA and 2 ORS

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 03.01.2024

Heard Mr. MK Sarma, learned counsel for the applicants and Mr. S. Dutta,

learned counsel for the respondent No. 3.

This interlocutory application has been filed under Section 5 of the Limitation Act for condoning the delay of 675 days in filing the connected appeal against the impugned judgment and award dated 07.05.2014, passed in the MAC Case No. 1469/2012 by the learned Member, MACT No. 2, Kamrup, Guwahati.

The learned counsel for the applicants has submitted that the deceased died in an accident leaving behind two minor children, one is 4 and half years and other is 1 and half years old at the relevant time of accident. After receipt of the copy of the judgment, the petitioner No. 1, who was the husband of the deceased, was not in a position to engage the counsel to file the connected appeal before this Court as he could not leave the minor child alone.

On the other hand, the learned counsel for the insurance company has made no objection subject to raise the issue on payment of interest during the period beyond limitation.

In view of the above, prayer for condoning the delay of 675 days in preferring the connected appeal is allowed.

The Registry is directed to register the connected appeal and list the same for admission hearing accordingly.

The IA stands disposed of.

JUDGE

Comparing Assistant