

GAHC010047682022



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

Case No. : I.A.(Civil)/742/2022

THE ORIENTAL INSURANCE CO. LTD.
A COMPANY REGISTERED UNDER THE COMPANIES ACT, 1956.
REPRESENTED BY ITS REGIONAL MANAGER, ULUBARI, GUWAHATI 7

VERSUS

DAYABATI ROY AND 4 ORS.
W/O LATE ABINASH ROY
RESIDENT OF VILLAGE SUPRAKANDI, PO GIRISHGANJ BAZAR, PS
NILAMBAZAR, DIST KARIMGANJ, ASSAM

2:MR. PACHI HLYCHILD
C/O SWAPAN NATH

RESIDENT OF SONAI ROAD
SILCHAR
CACHAR
PO LINK ROAD
DIST CACHAR
ASSAM
788006

3:ARUP ROY
S/O LATE ABINASH ROY

RESIDENT OF SAIDPUR PART IV
PO SAIDPUR MUKAM
PS SILCHAR
DIST CACHAR
ASSAM

4:ARPITA ROY
D/O LATE ABINASH ROY

RESIDENT OF SAIDPUR PART IV
PO SAIDPUR MUKAM
PS SILCHAR
DIST CACHAR
ASSAM

5:FULAMTI ROY
W/O LATE RAMAKANTA ROY
RESIDENT OF SAIDPUR PART IV
PO SAIDPUR MUKAM
PS SILCHAR
DIST CACHAR
ASSA

Advocate for the Petitioner : MR. S K GOSWAMI, MR. R SHARMA

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 08.08.2024

- 1.** Heard Mr. R. Sarma, learned counsel for the applicant.
- 2.** None has appeared for the respondents.
- 3.** It appears from the record that notices to respondent Nos. 2 and 5 were issued by substituted service in the news paper in pursuant to the direction of this Court and on last date i.e., on 01.08.2024, the applicant had filed an affidavit showing compliance of the directions of this Court for publication of notice to the respondent Nos. 2 and 5 in the newspaper. The date of appearance in the notice was 01.08.2024, however, on that day nobody appeared.
- 4.** Today, also none has appeared for the respondent Nos. 2 and 5.

- 5.** As against the other respondents, notices were earlier held to be duly served.
- 6.** This interlocutory application shall, therefore, be heard ex-parte against the respondent.
- 7.** This interlocutory application under Section 5 of the Limitation Act, 1963 has been filed by the applicant praying for condonation of delay of 561 days in preferring the connected appeal whereby the applicant has impugned the judgment and award dated 07.09.2018 passed by the learned District Judge-cum-learned Member, Motor Accident Claims Tribunal, Karimganj in MAC Case No. 46/2015.
- 8.** The learned counsel for the applicant has submitted that after passing of the award in MAC Case No. 46/2015, it came to the notice to the applicant that in connection with the same accident and for death of the same deceased, another claims case was filed by one Smt. Jaya Rani Roy claiming herself to be the wife of the deceased. The said claim case was registered as MAC Case No. 625/2014 and which was settled in Lok Adalat.
- 9.** Thereafter, another claim i.e., the present respondent No. 1, namely, Smt. Dayabati Roy also claiming to be the wife of the deceased, late Abinash Roy filed another claim case which was registered as MAC Case No. 46/2015 and by order dated 07.09.2018, a compensation to the tune of Rs.9,80,625/- was awarded to the claimant. After coming to know about the filing another MAC case in respect of the same accident and in relation to the same deceased, the present applicant filed a review application before the Tribunal in connection with MAC Case No. 46/2015 on 20.09.2021 and it is settled by the learned counsel for the applicant that the said review application has been partly allowed.

10. Now, the applicant has preferred the connected MAC Appeal and it is submitted by the learned counsel for the applicant that in pursuant to the review application against the impugned order, there has been a delay in preferring the connected MAC Appeal. The reasons for delay in preferring the connected MAC Appeal has been described in detail in paragraph Nos. 7 and 8 of the condonation of delay application.

11. Considering the issues involved in this case as well as considering the reasons shown by the applicant for delay in preferring the connected appeal, this Court is of considered opinion that the applicant has sufficiently explained the delay in preferring the connected appeal in paragraph Nos. 7 and 8 of the condonation of delay application, therefore, the delay of 561 days in preferring the connected appeal is hereby condoned and this interlocutory application is accordingly allowed.

12. Registry to registered the connected MAC Appeal and list it again for admission after a week on a date to be fixed by the Registry.

JUDGE

Comparing Assistant