

GAHC010098752018



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

Case No. : I.A.(Civil)/1648/2018

NATIONAL INSURANCE COMPANY LIMITED
REGISTERED HEAD OFFICE AT 3, MIDDLETON STREET, CALCUTTA 700071
REPRESENTED BY THE ASSTT. MANAGER, GAUHATI REGIONAL OFFICE,
BHANGAGARH, GUWAHATI 781005

VERSUS

MD. KHAIRUL ISLAM AND 2 ORS,
S/O MD. MOHIBULLA KHAN, VILL. JURIA, P.S. JURIA, DIST. NAGAON,
ASSAM, PIN 782124

2:MD. FARUQUE HUSSAIN
S/O LATE IBRAHIM ALI
VILL. AZAD NAGAR
AMINPATTY
P.S. SADAR
DIST. NAGAON
ASSAM
PIN 782001

3:MD. KASHEM ALI
S/O MD MUSLUMUDDIN
VILL. BHAKATGAON
P.S. SADAR
DIST. NAGAON
ASSAM
PIN 78200

Advocate for the Petitioner : MS. R D MOZUMDAR

Advocate for the Respondent : MS F BEGUM

Linked Case : MACApp./372/2018

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ASSAM.

Advocate for : MS. R D MOZUMDAR
Advocate for : appearing for MD KHAIRUL ISLAM AND 2 ORS

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 29.07.2024

- 1.** Heard Ms. R. D. Mozumdar, learned counsel for the applicant. Also heard Mr. M. Saikia, learned counsel for the respondent No. 1.
- 2.** The learned counsel for the applicant has served the notice on the respondent No. 2 by *dasti* mode and in compliance of the same an additional affidavit has been filed by the applicant to show the service of notice on the respondent No. 2 Md. Faruque Hussain through *dasti* mode.
- 3.** I have perused the additional affidavit filed by the applicant which contains a copy of the notice to the respondent No. 2 wherein the signatures and phone numbers of respondent No. 2 also appears.
- 4.** In view of the averments made in the additional affidavit by the applicant, the notice issued to respondent No. 2 is held to be duly served.
- 5.** As the service of notice on the opposite parties is complete, this application under 2nd proviso to Section 173 of the Motor Vehicles Act, 1988 has been filed by the applicant for condoning the delay of 212 days in preferring the connected appeal against the impugned judgment and award dated 20.06.2017 passed by the learned Member, Motor Accident Claims Tribunal, Nagaon in MAC Case No. 414/2012.
- 6.** The learned counsel for the applicant has submitted that the applicant has explained the cause for delay in preferring the connected appeal in paragraph No. 3 to 11 of the condonation of the delay application.

7. On the other hand, learned counsel for the claimant/respondent No. 1 has submitted that he has no objection if the delay in preferring the connected appeal is condoned by this Court.

8. In view of the grounds mentioned in paragraph No. 3 to 11 of the condonation of delay application as well as in view of the fact that the respondent No. 1 has not opposed the condonation of delay application, this Court is inclined to condone the delay of 212 days caused by the appellant in preferring the connected appeal.

9. This interlocutory application is accordingly allowed and the delay in filing the MAC Appeal is hereby condoned.

10. Registry is directed to list the connected MAC Appeal for admission hearing column in the next week on a date to be fixed by the Registry.

JUDGE

Comparing Assistant