

GAHC010114602019



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

Case No. : I.A.(Civil)/2023/2019

SMTI. SEPTEMI SANGMA
W/O- LATE KIRIPSON SANGMA, PERMANENT R/O- VILL.- RONGKHANG
RESERVE FOREST, P.S. BOITHA LANGSO, DIST.- KARBI ANGLONG, ASSAM
AND PRESENTLY RESIDING AT C/O- SRI ANIL MANTA, VILL.- SILCHANG,
P.O. NELLIE, P.S. JAGIROAD, DIST.- MORIGAON, ASSAM, PIN- 782410.

VERSUS

UNITED INDIA INSURANCE CO. LTD AND ANR
DIVISIONAL MANAGER, ARUN PRAKASH MANSION, FLOOR NO. 1,
BHANGAGARH, G.S. ROAD, GUWAHATI- 781018, DIST.- KAMRUP(M),
ASSAM. (INSURER OF THE VEHICLE NO. ML-08A-0609, SUPER BUS).

Advocate for the Petitioner : MR. A BARUAH, MR. J P MORE

Advocate for the Respondent : MR. K K BHATTA,

Linked Case :

SMTI. SEPTEMI SANGMA

VERSUS

UNITED INDIA INSURANCE CO. LTD AND ANR

Advocate for :

Advocate for : appearing for UNITED INDIA INSURANCE CO. LTD AND ANR

B E F O R E
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI
ORDER

21.08.2024

Heard Mr. A. Baruah, learned counsel for the applicant. Also heard Mrs. L. Sharma, learned counsel appearing on behalf of the respondent No. 1.

2. It appears that the name of respondent No. 2 has been struck off by this Court order dated 05.08.2024.

3. This is an application under the Second Proviso of Section 173 (1) of MV Act, r/w Section 5 of the Limitation Act for condonation of delay of 471 days in preferring the connected appeal against the impugned Judgment and Award dated 07.11.2017 passed by the learned Member, Motor Accident Claims Tribunal, Marigaon in MAC(D) Case No. 64/2014.

4. Mr. Baruah, learned counsel for the applicant submits that the applicant being from a rustic background and due to financial difficulties could not file the appeal on time.

5. Mrs. Sharma, learned counsel for the respondent No. 1 sought time to file objection in the matter. However, it is noticed that Mrs. Sharma had entered appearance on behalf of the opposite party No. 1 way back on 11.08.2022 and had made a similar prayer for filing objection. Since no objection has been filed till date, the said prayer of the learned counsel for the respondent No. 1 stands rejected. However, despite opportunity being given to make oral objection to the learned counsel for the respondent No. 1, no oral argument/objection was advanced.

6. Perused the averments made in the condonation application and as well as the grounds of appeal in the accompanying appeal memo.

7. Paragraphs 5 and 6 are reproduced hereunder for ready reference:-

"5. That your humble applicant begs to state that in the instant case, after the award was passed, since no free copy as provided u/s 168 proviso was made available to them the dealing advocate applied for certified copy on 06.06.2018 and the same was obtained on 11.06.2018. After getting the certified copy of the said Judgment and Order and after going through the same by the dealing advocate at Morigaon advised the applicant that there has good ground to file an appeal for enhancement of award and therefore engage an advocate practicing at Guwahati High Court for preferring the appeal.

6. That the applicant further submits that after the death of her husband, the applicant has been living with her minor son and there has no any other person to look after her son and therefore she cannot leave her minor school going son alone. Although the certified copy of the impugned Judgment and Order dated 07/11/2017 received by her Advocate at Morigaon on 11.06.2018 but she could managed to received the said certified copies only in the month of October, 2018. That due to poorness and widowed lady living with a minor school going son, she could not managed to come to Guwahati to engage a lawyer for filing an appeal against the impugned Judgment and Order dated 07/11/2017. The applicant able to come to Guwahati only in the first week of April, 2019 and engaged her lawyer at Guwahati for filing the present Appeal. Accordingly an appeal was prepared as per the instruction of the applicant/ appellant and the same is filed on 22/05/2019 before this Hon'ble Court along with this Interlocutory Application for condoning of delay. "

8. Apparent that due to financial difficulties and the applicant being from a rustic background, the delay of 471 days occurred in filing the accompanying appeal. The explanation presented in the IA appears to be sufficient and bonafide.

9. Accordingly, the delay of 471 days in preferring the connected appeal stands condoned.

10. Registry to register the accompanying appeal.

Disposed of.

JUDGE

Comparing Assistant