

GAHC010126392018



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

Case No. : I.A.(Civil)/2133/2018
In MAC Appl. No. 544/2018

SRI RAKTIM PRABAL GOSWAMI
S/O SRI SUKDEV GOSWAMI, R/O BRAHMAJAN GAON, P.O. AND P.S.
PENGERE, DISTRICT TINSUKIA, ASSAM

VERSUS

SRI KRISHNA SHARMA
S/O LATE DHANPATI SHARMA

2:SMT. SITA SHARMA
W/O LATE DHANPATI SHARMA
BOTH ARE RESIDENTS OF TENGAPANI GAON
P.S. BORDUBI
DIST. TINSUKIA
ASSAM
PIN - 786151 (CLAIMANTS)

3:M/S NEW INDIA ASSURANCE CO. LTD.
DIGBOI BRANCH
A.T. ROAD
P.O. AND P.S. DIGBOI
DISTRICT
ASSAM
PIN - 786171 (INSURER OF THE VEHICLE)

4:SRI BIKASH BASUMATARY
S/O SRI RANJIT BASUMATARY
R/O LAINA GAON
P.O. AND P.S. BORDUBI
DISTRICT TINSUKIA
ASSAM
PIN - 786171 (DRIVER OF THE VEHICLE)

Advocate for the Petitioner : MR. A K GUPTA
Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI
ORDER

27.06.2024.

Heard Shri A. K. Gupta, learned counsel for the applicant. Also heard Ms. P. Borthakur, learned counsel for the respondent no. 3.

The respondent nos. 1 & 2 have been served.

Shri Gupta, learned counsel has submitted that the presence of the respondent no. 4 may not be necessary and accordingly his name is struck off.

This application has been filed under Section 5 of the Limitation Act, 1963 for condonation of delay of 75 days in preferring the appeal against the judgment and award dated 28.07.2017 passed by the learned Addl. Member No. 2, MACT, Tinsukia in MAC Case No. 38/2011.

Shri Gupta, the learned counsel for the applicant by referring to the averments made in paragraphs 3 & 4 of the petition has submitted that there were sufficient grounds which had prevented presentation of the appeal within the prescribed period of limitation and therefore in the interest of justice, the delay may be condoned.

Ms. P. Borthakur, the learned counsel for the Insurance Company has however submitted that the reasons are not specific.

It is a settled principle of law that an application praying for condonation of delay is to be considered by taking a pragmatic and justice oriented approach

and substantial justice is to be preferred over the technicalities.

Considering the above and also the fact that the delay is of 75 days, the same is condoned and the IA stands allowed.

JUDGE

Comparing Assistant