

GAHC010142162020



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

Case No. : I.A.(Civil)/1670/2020

SRI MOHINDER SAHANI
S/O- LATE RUPAL SAHANI, R/O- DHEKIAJULI, MOUZA- DHEKIAJULI, DIST.-
SONITPUR, ASSAM.

VERSUS

THE RELIANCE GENERAL INSURANCE CO LTD AND 11 ORS
HAVING ITS REGISTERED OFFICE AT 3RD FLOOR, MAKER CHAMBERS IV,
NARIMAN POINT, MUMBAI- 400021 AND ONE OF ITS BRANCH OFFICE AT
TEZPUR, REP. BY THE BRANCH MANAGER, RELIANCE GENERAL
INSURANCE CO. LTD. TEZPUR BRANCH, TEZPUR, DIST.- SONITPUR,
ASSAM.

2:MUSST. ATABJAN BIBI
W/O- LATE RUSTAM ALI

3:MUSST. FATEMA KHATUN
W/O- LATE RUSTAM ALI

4:MD. AINUL ISLAM
S/O- LATE RUSTAM ALI

5:MD. MAINUL ISLAM
S/O- LATE RUSTAM ALI

6:MD. SAIFUL ISLAM
S/O- LATE RUSTAM ALI

7:MD. RAFIQUUL ISLAM
S/O- LATE RUSTAM ALI

8:MD. MANNAS ALI (MINOR)

S/O- LATE RUSTAM ALI

9:MD. RAMJAN ALI (MINOR)
S/O- LATE RUSTAM ALI

10:MUSST. SULEMA KHATUN
D/O- LATE RUSTAM ALI

11:MUSST. PHULESA KHATUN
D/O- LATE RUSTAM ALI
RES. NO. 2 TO 11 ARE RESIDENT OF VILL.- PALASBASTI PATHAR
P.O. BHOTPARA
P.S. DHEKIAJULI
MOUZA- BORSOLA
DIST.- SONITPUR
ASSAM AND RES NO. 8 AND 9 BEING MINOR
REP. BY THEIR MOTHER RES NO. 2.

12:DANDI RAM BORO
S/O- K. BORO
VILL.AND P.O. KEHERUKHANDA
MOUZA- BORSOLA
DIST.- SONITPUR
ASSAM

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : MD. I HUSSAIN

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

09.05.2024

Heard Mr. S.C. Biswas, the learned counsel appearing for the applicant as well as Mr. I. Hussain, the learned counsel representing the opposite party.

2. This is an application under Section 5 of the Limitation Act praying for

condonation of 74 days of delay in preferring the appeal.

3. On 03.11.2014 in MAC Case No.448/2008, the MAC Tribunal at Sonitpur passed a judgment directing the present applicant to pay the compensation. Thereafter, the applicant filed an appeal before this Court praying that the Tribunal should have directed the Insurance Company to pay the compensation. The connected appeal was filed on 05.05.2015 along with an Interlocutory Application praying for condonation of 74 days of delay.

4. It has been submitted that though the appeal was filed after a delay of 74 days, the cheque of ₹25,000/- which was deposited by the applicant/appellant, as statutory deposit, became untraceable in the office. Therefore, the applicant/appellant had to file another cheque worth ₹25,000/-. On deposit of this fresh cheque, the instant Interlocutory Application was registered on 07.10.2020. The applicant claims that he is not responsible for this delay.

5. The learned counsel Mr. Hussain has submitted that irrespective of whatever happened in the office of this Court, the claimant is waiting for the last 10 years to receive the compensation amount.

6. I have considered the submissions made by the learned counsel of both sides.

7. I am of the considered opinion that the delay of 74 days has been satisfactorily explained by the applicant. It is unfortunate that the statutory deposit cheque was lost in our office and for that matter, the applicant had to deposit another cheque to have this Interlocutory Application registered.

8. Under the aforesaid circumstances, the delay of 74 days is condoned. The connected MAC Appeal shall be registered and listed for Admission hearing on 22.05.2024.

JUDGE

Comparing Assistant