

GAHC010144782018



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

Case No. : I.A.(Civil)/2419/2018

SAHARA KHATUN and 3 ORS
W/O LATE KHORSHED JAMAN, R/O SONAPUR, DISTRICT- KAMRUP,
ASSAM

2: SULEMAN ALI
S/O LATE KHORSHED JAMAN
R/O SONAPUR
P.S. SONAPUR
DIST. KAMRUP
ASSAM.

3: ABDUL HAKIM
S/O LATE KHORSHED JAMAN
R/O SONAPUR
P.S. SONAPUR
DIST. KAMRUP
ASSAM.

4: SADDAM HUSSAIN
S/O LATE KHORSHED JAMAN
R/O SONAPUR
P.S. SONAPUR
DIST. KAMRUP
ASSAM

VERSUS

SRI MADAN SINGH and 2 ORS
S/O SAHIB SINGH, R/O- C/O SINGH AND SAIKI TRANSPORTER, LALMATI,
BELTOLA, GUWAHATI, BASISTHA, DISTRICT- KAMRUP (ASSAM), PIN-
781028

2:MD. SAHAR ALI
S/O MD. BARIK ALI @ BARAK ALI

R/O NO. 4 MALIBARI PATHAR
P.S. BOKO
DIST. KAMRUP
ASSAM
PIN 781123

3:THE REGIONAL MANAGER
NEW INDIA ASSURANCE CO. LTD.
MALIGAON BRANCH
BHANGAGARH
GUWAHATI
PIN 78101

Advocate for the Petitioner : MR.S K GOSWAMI

Advocate for the Respondent :

Linked Case : MACApp./611/2018

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GUWAHATI
PIN 781012

Advocate for : MR.S K GOSWAMI
Advocate for : MS. R D MOZUMDAR appearing for SRI MADAN SINGH and 2
ORS

**BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG**

ORDER

Date : 26-02-2024

Heard Mr. S. K. Goswami, learned counsel for the applicants. I have also heard Mr. S. P. Sharma, learned counsel for the respondent no. 3.

This is an application under section 5 of the Limitation Act read with Section 173(1) of M.V.Act, 1988, for condonation of delay of 21 days in preferring an appeal against the impugned judgment and award dated 30.05.2015, passed by the learned Member, MACT, Kamrup in MAC case no. 2529/2012.

The learned counsel for the applicants submits that despite of taking repeated steps upon the respondent nos. 1 and 2, by a registered post as well as by usual process, the appearance of respondent nos. 1 and 2 could not be procured. The learned counsel further submits that the respondent nos. 1 and 2 who were impleaded as respondent nos. 2 and 3 before the Motor Accident Claims Tribunal also remained absent and the matter proceeded ex-parte against them. As per the Order 41 Rule 14(4) which stated that it is not necessary to serve notice of any proceeding incidental to an appeal on any respondent other than a person impleaded for the first time in the Appellate Court, unless he has appeared and filed an address for the service in the Court of first instance or has appeared in the appeal.

In the instant case, since the respondent nos. 1 and 2 had not appeared, no notice is required to be issued to them in this appeal.

The ground for delay in filing this appeal has been explained in para 3 and 4, and on perusal, I am satisfied with the ground explained for delay in

filing this appeal. Moreover, the learned counsel for respondent no. 3, Mr. S. P. Sharma, has not filed any objection and submits that he has no objection, if the delay of 21 days in filing the connected appeal is condoned.

In view of the above, the delay of 21 days in filing the connected appeal is hereby condoned.

With the above observation, this IA stands allowed and disposed of.

Since the appeal has already been registered, list it for admission hearing.

JUDGE

Comparing Assistant