

GAHC010167122021



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

Case No. : I.A.(Civil)/2010/2021

SMTI. LABANYA HAZARIKA
W/O SRI MULAN HAZARIKA, R/O VILL-CHAOLDHUWA, P.O.-
CHAOLDHUWA, P.S.-BOGINADI, DIST-LAKHIMPUR, ASSAM

VERSUS

ORIENTAL INSURANCE COM. LTD.
REPRESENTED BY REGIONAL MANAGER, GUWAHATI, ULUBARI, GS
ROAD, DIST-KAMRUP, ASSAM

Advocate for the Petitioner : B R DAS

Advocate for the Respondent : MR D J HALOI

BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 21.02.2024

Heard Mr. B.R. Das, learned counsel for the applicant. Also heard Mr. S.A. Hasan, learned counsel appearing on behalf of Mr. D.J. Haloi, learned counsel for the respondent/ Insurance Company.

This is an application under Section 5 of the Indian Limitation Act, 1963 praying for condonation of delay of 2664 days in filing the connected MAC appeal under Section 173(1) Proviso M.V. Act, 1988 for enhancement of the awarded amount passed by the Member MACT, Lakhimpur in MACT Case No. 95/2009 on 20.07.2012.

The reasons for delay in filing the connected appeal within the stipulated period of time have been explained in paragraphs 1,5,6,7,8,9 & 10 of the accompanying application inter-alia contending that

the appellant was under medical treatment for her chronic ailments and thereafter inadvertently filed the appeal along with I.A.(C) for condonation of delay before the Gauhati High Court, Itanagar Bench which was dismissed by an order dated 08.01.2020. It is further submitted that the appeal could not be immediately preferred after dismissal of I.A. due to lock down during Covid-19 period. Moreover, the another reason why the appeal could not be preferred on time was as the applicant is an illiterate and rustic village women and not well aware about the legal aspect of the matter.

Mr. Hasan, the learned counsel for the sole respondent has filed an affidavit raising objection to the application for condonation of delay of 2664 days in filing the appeal. However, Mr. Hasan fairly submits that he has no objection for condonation of delay as prayed for, on the condition that the appellant is ready to forgo the claim on interest part for the entire delay period from her claim to which the learned counsel for the appellant has agreed not to press any interest for the delayed period.

Upon consideration of the explanation provided by the applicant in accompanying application and also upon hearing the learned counsel for the parties and as agreed upon by the learned counsel for the respondent who has no objection for condonation of delay on certain condition as aforesaid; I am satisfied that there was no deliberate laches and negligence on the part of the applicant and the applicant was prevented by sufficient cause in not preferring the connected MAC. Appeal within the stipulated period of time.

In view of the above, the delay of 2664 days in filing the connected MAC Appeal is hereby condoned in the interest of justice.

With the above, this I.A.(C) stands disposed of.

Registry is directed to register the connected MAC Appeal and list accordingly for admission.

JUDGE

Comparing Assistant