

GAHC010201752017



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

Case No. : I.A.(Civil)/3225/2017

SMTI SAPTA DEEPA BHARALI BAISHYA @ QUEEN BHARALI,
W/O LATE HEMANTA BAISHYA, VILL. BIJOYPUR, P.O. KHETRI, P.S.
KHETRI, DIST. KAMRUP M, ASSAM. PRESENT ADDRESS C/O MANTU
BORDOLOI, S/O DIPHU BORDOLOI, JAGIROAD TOWN, P.O. and P.S.
JAGIROAD, DIST. MORIGAON, ASSAM.

VERSUS

THE REGIONAL MANAGER and 2 ORS,
ORIENTAL INSURANCE CO. LTD., GUWAHATI REGIONAL OFFICE,
ULUBARI, GUWAHATI-7

2:PAWAN JAIN

S/O MOLCHAND JAIN
M/S PAWAN AUTO MOBILES
N.H.37
BELTOLA
GUWAHATI 781028
DIST. KAMRUP
ASSAM.

3:KALU CHETRI

S/O MOHAN CHETRI
VILL. BEGANAKHOWA
P.S. GOLAGHAT
DIST. GOLAGHAT
ASSAM
PIN 78570

Advocate for the Petitioner : MR.M TALUKDAR

Advocate for the Respondent : MR. S DUTTA, SR.ADV.

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 20-04-2024

- 1.** Heard Mr. M. Talukdar, learned counsel for the applicant Smt. Sapta Deepa Bharali Baishya @ Queen Bharali.
- 2.** The applicant has filed this application u/s 5 of the Limitation Act of 1963 with prayer for condonation of delay of 239 days.
- 3.** It is submitted that the judgment in the original MAC Case No. 86/2012 was passed on 06.08.2016 but the learned counsel representing the applicant informed her about the judgment after 5 months. This resulted in the delay.
- 4.** Heard Mr. S. Dutta, learned counsel for the insurer.
- 5.** An affidavit-in-opposition was submitted on behalf of the insurer, Oriental Insurance Company Limited. It is submitted that sufficient ground was not shown for condonation of delay. No specific reason has been assigned to justify the laches in filing the appeal against the impugned judgment and order dated 06.08.2016. A casual approach has been taken. Thus there is no ground to condone the prolonged delay of 239 days in filing the appeal.
- 6.** It is also submitted on behalf of the applicant that notice issued to respondent Nos. 1 and 3 has been served but the respondent No. 2's address was not found to be proper and notice was returned with a remark that the respondent No. 2's address was not correct and notice could not be served. The

learned counsel for the applicant has submitted that the name of the respondent No. 2 may be struck-off as the respondent No. 2 is not a necessary party in connection with the appeal as the appeal is basically against the quantum of the award.

7. After considering the submissions of both sides, name of the respondent No. 2 is struck-out from the arraignment of the respondents.

8. I have also considered the submissions at the Bar with circumspection. The application is supported by an affidavit sworn in by the applicant. Instead of dismissing the case at the threshold on the ground of delay, the appeal can be decided on the merits. I have considered the submission that the applicant has sufficient grounds, because she was not aware about the judgment and order dated 06.08.2016, as she has relied on her learned counsel to conduct the entire proceedings.

Taking liberal view delay is condoned.

No order as to costs.

Registry to register the connected appeal.

IA is disposed of.

JUDGE

Comparing Assistant