

GAHC010203922023



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

Case No. : I.A.(Civil)/3270/2023

THE ORIENTAL INSURANCE CO. LTD.
A COMPANY REGISTERED UNDER THE COMPANIES ACT, 1956. REP. BY ITS
REGIONAL MANAGER, ULUBARI, ITS REGIONAL MANAGER, ULUBARI,
GUWAHATI- 7, DIST.- KAMRUP, ASSAM.

VERSUS

RUPASHRI SINHA @ RUPASHRI SINGHA AND 5 ORS.
W/O LATE NIRANJAN SINHA @ NIRANJAN SINGHA,
VILL.- T/A POLICE QUARTER, DURGAPALLY, P.O.- GHUNGOOR, P.S.-
SILCHAR, DIST.- CACHAR, ASSAM, PIN- 788014.
PERMANENT ADDRESS- VILL.- RUPATGRAM, P.S.- RATABARI, DIST.-
KARIMGANJ, ASSAM.

2:NEHA SINHA
D/O LATE NIRANJAN SINHA @ NIRANJAN SINGHA

VILL.- T/A POLICE QUARTER
DURGAPALLY
P.O.- GHUNGOOR
P.S.- SILCHAR
DIST.- CACHAR
ASSAM
PIN- 788014.
PERMANENT ADDRESS- VILL.- RUPATGRAM
P.S.- RATABARI
DIST.- KARIMGANJ
ASSAM.

3:RUHAN SINHA
S/O LATE NIRANJAN SINHA @ NIRANJAN SINGHA

VILL.- T/A POLICE QUARTER
DURGAPALLY
P.O.- GHUNGOOR
P.S.- SILCHAR
DIST.- CACHAR
ASSAM
PIN- 788014.
PERMANENT ADDRESS- VILL.- RUPATGRAM
P.S.- RATABARI
DIST.- KARIMGANJ
ASSAM.
(BEING MINOR
REP. BY RESPONDENT NO. 1).

4:RUPOM SINHA
S/O LATE NIRANJAN SINHA @ NIRANJAN SINGHA

VILL.- T/A POLICE QUARTER
DURGAPALLY
P.O.- GHUNGOOR
P.S.- SILCHAR
DIST.- CACHAR
ASSAM
PIN- 788014.
PERMANENT ADDRESS- VILL.- RUPATGRAM
P.S.- RATABARI
DIST.- KARIMGANJ
ASSAM.
(BEING MINOR
REP. BY RESPONDENT NO. 1).

5:MONIR UDDIN CHOUDHURY
S/O LATE FOIJUR RAHMAN CHOUDHURY

VILL.- KAJIDAHAR PART- III
P.O.- BOALI JUR
P.S.- SONAI
DIST.- CACHAR
ASSAM.

6:TAZIM UDDIN BARBHUIYA
S/O LATE NOOR UDDIN BARBHUIYA

R/O DUDPATIL
KORILPAR PART- IV
HATICHERRA
P.S.- SILCHAR
DIST.- CACHAR

ASSAM

Advocate for the Petitioner : MR. S K GOSWAMI

Advocate for the Respondent : MR. L R MAZUMDER (R-1,2)

Linked Case :

THE ORIENTAL INSURANCE CO. LTD

VERSUS

RUPASHRI SINHA @ RUPASHRI SINGHA AND 5 ORS. H

Advocate for : MR. S K GOSWAMI

Advocate for : appearing for RUPASHRI SINHA @ RUPASHRI SINGHA AND 5 ORS. H

BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG

ORDER

Date : 27.05.2024

Heard Mr. S. K. Goswami, learned counsel for the applicant along with Mr. L. R. Mazumdar, learned counsel for the claimant/respondent Nos. 1, 2, 3 and 4.

It is seen that Office note dated 06.03.2024, shows that A/D card or unserved notice upon respondent Nos. 5 and 7 is not returned till date, while A/D card of respondent No.6 has arrived bearing the signature of the mother of respondent No.6. It is also seen that more than 1(one) month has lapsed since notice was issued to respondents No. 5 and 7.

In view of the above, notice is deemed to be served upon respondent No.6 as prayed for.

This Court find it fit to dispose of the instant application filed under Section 5 of the Limitation Act read with Section 173 of the Motor Vehicle Act, 1988 for condonation of delay of 59 days in filing the instant appeal against the

impugned judgment and award dated 11.04.2023 by the Learned Member, Motor Accident Claims Tribunal, Cachar at Silchar, Assam in M.A.C Case No. 436/2019.

The learned counsel for the respondent Nos. 5 submits that they will not be filing any written objection against the application for condonation of delay.

Mr. S. K. Goswami, learned counsel for the applicant submits the reasons for the delay has highlighted in paragraph 5 of the application, which shows that the delay was not due to any negligence or laches on the part of the applicant, but mainly due to the usual office procedures, which had to be followed for which the appeal could not be filed within time.

I have heard the submissions made by the learned counsel for the applicant and have considered the fact that the counsel for respondent Nos. 1 to 4 has preferred not to file any written objection.

On perusal, this Court is satisfied with the explanation, highlighted in the application at paragraph 5.

This Court finds that the delay was not due to any negligence or laches on the part of the applicant and accordingly the application for condoning the delay of 59 days is allowed.

I.A.(Civil)/3270/2023 is allowed and disposed of as above. The MAC Appeal is to be given a Registration number by the Registry and the matter is to be listed for admission in due course after 1(one) week.

JUDGE

Comparing Assistant