

GAHC010269682022



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

Case No. : I.A.(Civil)/90/2023

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

VERSUS

MAJIBUR RAHMAN AND 4 ORS.
S/O LATE HUSSAIN ALI,
VILL.- UDALGURI NEPALI GAON,
P.O.- DHANSIRI BAZAR,
P.S.- ORANG,
DIST.- UDALGURI, B.T.A.D. ASSAM, PIN- 784114.

2:RANA DEV SAIKIA
S/O GUNA KANTA SAIKIA

R/O WARD NO. 7
N.T. ROAD
NORTH LAKHIMPUR

P.O. AND P.S.- NORTH LAKHIMPUR
DIST.- NORTH LAKHIMPUR
ASSAM
PIN- 787001.

3:MD. JAHANGIR ALAM
S/O ABDUL WAHIB

VILL.- FASALPUR DHUBURI

P.O. AND P.S.- DHUBURI

DIST.- DHUBURI
ASSAM
PIN- 783301.

4:PARIMAL DAS
S/O LATE J. CHANDRA DAS

VILL.- NO. 2
DARRANG BAHJHER

P.O.- SILBORI

P.S.- DALGAON

DIST.- DARRANG
ASSAM
PIN- 784148.

5:NATIONAL INSURANCE COMPANY LIMITED
MANGALDAI BRANCH
REP. BY ITS REGIONAL MANAGER
G.S. ROAD
BHANGAGARH
GUWAHATI- 05

Advocate for the Petitioner : MR. S K GOSWAMI, MR. R SHARMA

Advocate for the Respondent : MS. R D MOZUMDAR (r-5), MR. B K DAS (R-1),MR. M ISLAM (r-4),MR. S P SHARMA (r-5),MS. C MOZUMDAR (r-5)

Linked Case :

THE ORIENTAL INSURANCE CO. LTD .

VERSUS

MAJIBUR RAHMAN AND4 ORS . A

Advocate for : MR. S K GOSWAMI
Advocate for : appearing for MAJIBUR RAHMAN AND4 ORS . A

Linked Case :

THE ORIENTAL INSURANCE CO. LTD .

VERSUS

MAJIBUR RAHMAN AND4 ORS . A

Advocate for : MR. S K GOSWAMI
Advocate for : appearing for MAJIBUR RAHMAN AND4 ORS . A

**BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG**

ORDER

12.12.2024

Heard Mr. S.K. Goswami, learned counsel for the applicant. Also heard Mr. B.K. Das, learned counsel for the respondent no.1 and Mr. S.P. Sharma, learned counsel for the respondent no.5.

This is an application filed under Section 5 of the Limitation Act for condonation of delay of 182 days in preferring the connected appeal against the judgment and award dated 11.03.2022 passed by the learned Member, Motor Accident Claims Tribunal, Udalguri, in MAC Case No. 17/2017.

The ground for delay in preferring the connected appeal has been

explained in paragraph no. 3 of the application. It is submitted that after passing the judgment in MAC Case No. 17/2017 on 11.03.2022, the engaged Advocate applied for certified copy of the judgment and the same had been prepared on 30.07.2022. Thereafter, the appellant company received a certified copy of the judgment from the engaged Advocate on 20.08.2022. Immediately, thereafter, the processing officer of the petitioner company collected the record and prepare the Office Note and put the same before competent authority on 02.09.2022 and the competent authority on 13.09.2022, recommended the MAC Case for preferring appeal. Finally the Regional Manager of the petitioner's Company agreed and recommended to file an appeal by letter dated 21.09.2022. Thereafter, the petitioner company handed over the analogous file on 30.09.2022 and file was handed over to the advocate for preferring an appeal on 13.09.2022, but due to inadvertent mistake, the advocate was not instructed to prefer connected appeal. As a result, petitioner company handed over the file to the dealing Advocate on 02.12.2022 for preferring an appeal. Thereafter, the connected appeal has been filed on 09.12.2022. As a result, there is a delay of 182 days in the preferring appeal.

The learned counsel for the applicant further submits that there was no deliberate or intentional negligence of the petitioner company in preferring the connected appeal and hence, prays for condonation of delay in filing appeal.

Mr. Sharma, the learned counsel for the respondent no. 5 submits that he has no objection, if the delay is condoned. The respondent no. 1, however, filed an objection stating that the delay in filing the connected appeal has not been properly explained and as this is a contested case where the company is expected to have applied for certified copy of the judgment and till appeal, if any, within the stipulated time. But in the instant case there is a delay of 182

days which cannot be condoned unless properly explained.

Heard the learned counsel for the parties.

Upon hearing the parties and on consideration and the explanation made by the applicant for delay in preferring appeal, particularly in paragraph no. 3 of the application, this Court is satisfied that the applicant has properly and satisfactorily explained the cause of delay in filing the connected appeal and the appellant was prevented from sufficient cause for not preferring the connected appeal within the stipulated time.

In view of the observations made above, the delay of 182 days in filing the connected appeal is hereby condoned.

The I.A. stands allowed and disposed of.

Registry shall number the appeal and list for admission on a date to be fixed by the Registry.

JUDGE

Comparing Assistant