

GAHC010273642019



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

**Case No. : I.A.(Civil)/140/2020**  
MAC Appl. No. 16261/2019

NRIPEN KR. BHATTACHARJYA  
SON OF K.N. BHATTACHARJYA, RESIDENT OF NRL TOWNSHIP, P.O. NRL  
COMPLEX, P.S. GOLAGHAT, DIST. GOLAGHAT, ASSAM, PIN 785699

VERSUS

SMTI. ACHINA RAI AND 2 ORS  
WIFE OF SRI MAHABIR RAI, RESIDENT OF VILL. BISHNUPUR  
ADARSHAGAON, P.O. KANAIGHAT, DIST. GOLAGHAT, ASSAM  
(WIFE OF DRIVER OF THE VEHICLE NO. AS-05-A-3640)

2:SRI MAHABIR RAI  
SON OF LATE PARAMESWAR RAI  
RESIDENT OF VILL. BISHNUPUR ADARSHAGAON  
P.O. KANAIGHAT  
DIST. GOLAGHAT  
ASSAM  
( DRIVER OF THE VEHICLE NO. AS-05-A-3640)

3:THE BRANCH MANAGER  
UNITED INDIA INSURANCE CO  
LTD.  
GUWAHATI BRANCH  
HOSPITAL ROAD  
BOKAKHAT, P.O. BOKAKHAT  
DIST. GOLAGHAT  
ASSAM  
(INSURER OF THE VEHICLE BEARING REGD. NO. AS-05-A-364

**Advocate for the Petitioner : MR. M BHAGABATI**  
**Advocate for the Respondent :**

**BEFORE  
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

**ORDER**

**27.06.2024.**

Heard Shri M. Bhagawati, learned counsel for the applicant. Though the respondent has been served none has appeared.

This is an application filed under Section 5 of the Limitation Act, 1963 read with the proviso to Section 173 of the Motor Vehicle Act for condonation of delay of 848 days in preferring the appeal against the judgment and award dated 29.06.2017 passed by the learned Member, MACT, Golaghat, Assam in MAC Case No. 76/2015.

By the impugned award, while there is a direction for pay and recovery from the applicant/owner.

Shri Bhagawati, the learned counsel has submitted that the appeal could not be preferred within the time prescribed by limitation because of his ailment which included undergoing of an operation in the Vivekananda Kendra NRL Hospital and in the process, there is a delay of 848 days in preferring the appeal.

It however transpires that the claim was also not contested by the present applicant. The delay is also of a long period of 848 days.

Under those facts and circumstances, this Court is of the opinion that even if a lenient view is taken to condone the delay, some conditions are to be imposed.

Therefore, taking a justice oriented approach as laid down by the Hon'ble Supreme Court, while the delay in preferring the appeal is condoned and the IA is allowed, the same is subject to payment of cost of Rs.2000/- in favour of the Gauhati High Court Bar Welfare Fund.

IA stands disposed of.

**JUDGE**

**Comparing Assistant**