GAHC010127992018

2026:GAU-AS:11116

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

Case No. : I.A.(Civil)/2166/2018

NATIONAL INSURANCE CO. LTD
HAVING ITS REGISTERED OFFICE AT MIDDLETON STREET, KOLKATTA AND OF THE REGIONAL OFFICES KNOWN AS GUWAHATI REGIONAL OFFICE AT GS ROAD, BHANGAGARH, GUWAHATI-3, ASSAM AND ONE OF ITS BRANCH OFFICE AT NAGAON

VERSUS

MD MEHBUB ALOM @ MEHBOOB ALOM AND 2 ORS
SON OF MD. SAHABUDDIN BORBHUYAN RESIDENT OF MUBARAK BASTI PS MURAJHAR, DISTRICT NAGAON 782445 (ASSAM)

2:KAMAL UDDIN BARBHUYAN
SON OF ABDUL WAHID BORBHUYAN
RESIDENT OF MUBARAK BASTI
PS MURAJHAR
DISTRICT NAGAON
782445 (ASSAM)

3:MANIK UDDIN MAZUMDAR
SON OF AZAD ALI MAZUMDAR
VILAGE DOBAKA PATHAR
PS DOBAKA
DIST NAGAON 78244

Advocate for the Petitioner : MS P HUJURI, MR. R K BHATRA,MR. K K BHATRA

Advocate for the Respondent : ,

Linked Case : I.A.(Civil)/2167/2018

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VILAGE DOBAKA PATHAR
PS DOBAKA
DIST NAGAON 782440

Advocate for : MS P HUJURI
Advocate for : appearing for MD MEHBUB ALOM @ MEHBOOB ALOM AND 2 ORS

Linked Case : MACApp./553/2018

NATIONAL INSURANCE CO. LTD
HAVING ITS REGISTERED OFFICE AT MIDDLETON STREET
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DIST NAGAON 782440

Advocate for : MS P HUJURI
Advocate for : MR D MONDAL (R-1) appearing for MD MEHBUB ALOM @ MEHBOOB ALOM AND 2 ORS

BEFORE
HONOURABLE MRS. JUSTICE YARENJUNGLA LONGKUMER

ORDER

Date : 07-08-2026

The instant appeal under section 5 of the Limitation Act has been preferred praying for condonation of delay of 463 days in preferring the connected appeal against the judgment and award dated 20.09.2016 passed by the learned Member, MACT Nagaon in MAC Case No.593/2014 whereby a sum of Rs.2,83,800/- has been awarded in favour of the respondents/claimants.

Heard the learned counsel for the applicant Mr. R.K. Bhatra. Also heard Mr.D. Mondal, learned counsel for the respondents/claimants.

The applicant herein submits that a copy of the judgment and award dated 20.09.2016 was received by the Nagaon branch office along with the opinion of the counsel for the Insurance Company vide letter dated 29.09.2016. After receiving the same, the officials of the Nagaon branch office wrote a letter to the dealing Advocate vide letter dated 04.01.2017 asking for necessary documents But the dealing Advocate did not furnish the same till 30.01.2017. Again on 30.01.2017, the branch office wrote another letter to the dealing Advocate to furnish the documents. Then the Nagaon branch office forwarded the entire file along with the opinion of the dealing Advocate to the Divisional office, Tezpur for necessary action vide letter dated 15.02.2017.

It is further submitted that after receiving the file, the officials of the Divisional office deliberated on the matter and forwarded the same to the Regional office. Thereafter, on 13.11.2017 the Nagaon branch office sent the collected documents i.e certified copy of the judgment, deposition of witness, certified copy of the GR records. Thereafter, the regional office sought opinion from one of the panel advocates in High Court to advise regarding next course of action and the Advocate suggested to file an appeal in view of the award being unreasonable and unjustified. The officials in the Guwahati Regional office took the decision to file an appeal and the entire exercise took a considerable period of time and accordingly sent the file back to the Advocate at High Court for preparation of the appeal on 13.03.2018. The counsel took some time to draft the appeal memo and for filing the same and thereafter some time was taken for preparation of statutory cheque. As a result, delay of 463 days has occurred in filing the connected appeal.

The learned counsel for the applicant further submits that the appellant has taken a valid and good ground for appeal in the connected appeal and merit

of the case has also to be looked into by this Court. The learned counsel submits that the appellant is not at all liable to pay the compensation as the deceased was a pillion rider and gratuitous passenger and the policy was "Act only Policy' and therefore not a third party and hence, the Insurance Company/appellant has filed the connected appeal on this ground. The learned counsel further submits that there was no willful negligence and the delay occurred due to procedural checks and counter checks whereby files move from one office to another and from one table to another took time and it could not be prevented. He therefore, prays that the delay may be condoned in the interest of justice.

Mr. D. Mondal, learned counsel appearing for the respondent/claimant has seriously objected to the condonation of delay. He has pointed out that there are unexplained delay in the application inasmuch as the judgment and award dated 20.09.2016 was brought to the knowledge of the applicant on 29.02.2016 however, the Nagaon branch office wrote to the dealing Advocate only on 04.01.2017 i.e after about 90 days. Thereafter, next step was taken by the branch office only on 30.01.2017 by writing to the Advocate to furnish the documents. The Nagaon branch office has forwarded the file to the Divisional office on 15.02.2017 and the same was received on 21.03.2017. However, after receiving the same on 21.03.2017, the applicant again took about 8 months time to deliberate about the matter and forwarded the same to the Regional office only on 13.11.2017. This entire period of 90 days from 29.02.2016 to 04.01.2017 and 8 months from 21.03.2017 to 13.11.2017 has not been explained by the applicant.

The learned counsel for the respondent/claimant has relied on the case of Postmaster General and Others vs Living Media India Limited and Another

reported in (2012) 3 SCC 563 and also on the case of Commissioner of Public Instructions & Ors vs Shamshuddin passed in SLP (Civil) 11989/2020. By relying on the said authority, the learned counsel submits that the Supreme Court has specifically held that all the Government bodies and agencies and instrumentalities has to show reasonable and acceptable explanation for the delay and there is no need to accept the usual explanation that the file was kept pending for several months/ years due to procedural lapse. In fact the Supreme Court held that Government Department are under a special obligation to ensure that they perform their duties and that condonation of delay is an exception and should not be used as an anticipated benefit for the Government Departments. The learned counsel further submits that there is no proper explanation except for mentioning various dates and procedural delays due to movement of file from office to office. Such explanation has been depreciated in the case of Postmaster General and others (supra) and therefore prays that the application may be dismissed on the ground of delay.

This Court has considered the submissions of the learned counsel for the parties and has perused the application filed by trhe applicants. This Court is in agreement with the submission of the learned counsel for the respondent/claimant on the arguments that the applicant has not explained the delay sufficiently specially in regard to the period of 90 days i.e.29.02.2016 to 04.01.2017 and also 21.03.2017 and 13.11.2017.

In the case of Shivamma (Dead) by LRS vs Karnataka Housing Board & Ors reported in 2025 INSC 1104, the Supreme Court has held that the explanation for delay must now cover the entire period from the date on which the limitation began to run. Condonation of delay is a matter of discretion for the Court and the Court has to be satisfied that sufficient cause has been shown

by the applicant and it was the parties themselves who are responsible for the delay and not the counsel.

In the instant case this Court has observed the delay was caused by the applicant themselves and not the counsel. The applicant has been negligent and casual in pursuing the case. In such circumstances, this Court is not inclined to condone the delay. Accordingly, the application stands dismissed.

Registry shall allow the applicant to withdraw the statutory deposit of Rs.25,000/-

JUDGE

Comparing Assistant